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Outline. Royal commission inquiry into Coleridge dispute

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ROYAL COMMISSION
INQUIRY INTO LABOUR DISPUTES

543

HEARINGS HELD AT
TORONTO

VOL. NO.

44

DATE

June 2, 1967

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IN THE MATTER OF The Public
Inquiries Act, R.S.O. 1960,
Ch. 323

- and -

IN THE MATTER OF an Inquiry
Into Labour Disputes

BEFORE:

The Honourable Ivan C. Rand,
Commissioner, at 123 Edward
Street, Toronto, Ontario, on
Friday, June 2nd, 1967.

E. Marshall Pollock Counsel to the Commission

APPEARANCES:

A.J. McKichan)	The Retail Council of
M.N. MacIver)	Canada
Arthur Williams)	
Donald Montgomery)	
Mr. Cotterell)	
L. Bertacchi)	
Robert Bouchard)	United Steelworkers of
Fortunato Rao)	America
J. Fitzpatrick)	
Otto Urbanovics)	
Eugenio Elia)	

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Toronto, Ontario,
Friday, June 2,
1967.

1
2 ---On commencing at ten o'clock a.m.

3
4 MR. POLLOCK: The Retail Council of
5 Canada, A. J. McKichan, and with you is Mr. M. N.
6 MacIver.

7 Well, we have had an opportunity to
8 have a brief look at your submission, gentlemen. The
9 proceedings of this Commission are extremely informal.
10 The manner of presentation is up to yourselves. You
11 can go through the points ^{as}seriatum and we can discuss
12 them/you raise them or you can read parts of the brief,
13 or you can read all of the brief or take the course
14 that best suits the desires of your organization. We
15 will ask some questions that relate to the brief and
16 some that perhaps don't, and maybe we will shed some
17 light on these very vexing problems that we are all
18 faced with.

19 So, gentlemen, it is up to you.

20 MR. McKICHAN: Mr. Commissioner, I
21 should perhaps first mention that Mr. MacIver is
22 industrial relations manager of Steinberg's Limited
23 while I am General Manager of the Retail Council of
24 Canada. If it meets the pleasure of the Commission,
25 in view of the fact that I know you have had the
26 submission before you I would simply touch on one or
27 two of the points which we think are most important.

28 Before doing so, however, I might
29 just mention that because of the importance of this
30 submission and because our Council had not had occasion

1 to present our views on this matter to any other
2 Commission or inquiry recently, we took for us the
3 somewhat unusual step of circulating each of our members
4 doing business in Ontario with a copy of the principles
5 of our submission and obtained their approval to it
6 before submitting it. This submission itself was
7 drawn up under the direction of our employee relations
8 committee, and in view of this I think it quite fairly
9 represents the views of our members on this important
10 subject.

11 I should perhaps also explain that the
12 Retail Council represents most of the medium-sized
13 and larger retailers doing business in Canada. It has
14 members in all trade specialties covering both
15 department stores, grocery chains, variety chains,
16 individual proprietorships and various types of
17 specialty stores. As we mentioned in the submission,
18 the majority of our members do not have organized
19 staffs. However, numerically quite a substantial
20 percentage do have organized staffs and our position on
21 many of these subjects has been guided particularly by
22 the experience of those of our members who are
23 organized.

24 THE COMMISSIONER: About what percentage
25 of the total number of employees are organized?

26 MR. POLLOCK: In Ontario.

27 MR. McKICHAN: We estimate that in
28 Ontario there are approximately 300,000 employees
29 engaged in the retail trades and the only substantial
30 area of organization is in the grocery trade and I would

1 estimate that perhaps approximately 30,000 employees
2 or 10 percent of the total would be organized.

3 THE COMMISSIONER: And what percentage
4 of that 300,000 do you represent?

5 MR. McKICHAN: We estimate about one-
6 third, something over one-third.

7 THE COMMISSIONER: For instance, do
8 you represent the large retail stores, large systems
9 like Dominion and so on?

10 MR. McKICHAN: Yes, sir --- Eaton's,
11 Simpson's, Simpsons-Sears, Dominion, Loblaws,
12 Steinberg's and so forth.

13 THE COMMISSIONER: And I suppose that
14 the greater part of the organizational employees are
15 in those chains or how is it distributed?

16 MR. McKICHAN: So far as employees
17 as distinct from working proprietors or relatives of
18 the proprietor who are employed in small businesses
19 are concerned, I would say a majority of employees
20 are employed by members of our association, that is
21 to say, probably there is something in the region
22 of over 150,000 employees employed by our members
23 in Ontario, and as I say, of this perhaps 10,000
24 are organized. The proportion is quite small.

25 MR. POLLOCK: Why do you think it is
26 so small? Why is it so small? It is 50 percent of the
27 provincial average, less than 50 percent of the
28 provincial average.

29 MR. McKICHAN: The reasons I think are,
30 first, the fact that a great amount of part-time

1 employment is worked in the retail industry and part-
2 time employees are not very much attracted, I gather,
3 to unions or to an organized form of employment.

4 THE COMMISSIONER: That is seasonal,
5 is it?

6 MR. McKICHAN: Partly seasonal, but
7 more part-time in the sense of a small number of
8 hours per week, that is to say, a great many married
9 women are employed at peak periods, say, between the
10 hours of 12 and 4 o'clock each day. Similarly, a
11 great many students work Friday evenings and Saturdays
12 and this type of thing. This is one reason, I think.

13 Another reason which Mr. MacIver
14 reminds me of is the relatively high turnover in
15 staff, that is to say, many, particularly women, join
16 the industry for quite a short period of time prior
17 to marriage or after marriage for a few years and
18 then leave it again and go into some other service
19 or occupation because the amount of training required
20 is not lengthy. It is a type of employment which is
21 easy to enter and leave. I think also important in
22 the general picture is the fact that there are so
23 many women in the work force compared to most other
24 industries, many of them being married women who
25 again may not be particularly interested in union
26 activity, nor do they regard their work experience
27 as an essential facet of their lives. It is an
28 adjunct to something else, usually marriage.

29 THE COMMISSIONER: So you certainly
30 have the tendencies that are against organization.

1 MR. McKICHAN: Yes, this is correct,
2 sir. I think our members would also add, of course,
3 that they would also regard their working conditions
4 as quite good and also there is the fact that there
5 is a very high ratio of supervisory employees to
6 regular employees. We estimate that one in five of
7 the work force in retailing have some form of
8 supervisory responsibility.

9 THE COMMISSIONER: But not exclusively?

10 MR. McKICHAN: Often not exclusively, no.
11 And so again because of the relatively small size of
12 the units in the industry there is quite a high
13 identification with management.

14 MR. POLLOCK: Is there any significant
15 differential between the working conditions of what
16 you would call the organized employers and the
17 unorganized employers?

18 MR. McKICHAN: The organized employers ---

19 MR. POLLOCK: Well, employees of the
20 organized employers.

21 MR. McKICHAN: The organized employees
22 are, as I said, largely in the grocery industry where
23 the work is much nearer to an industrial type of
24 environment than in the department stores. The work
25 is much more routine in nature, perhaps more
26 mechanical in nature. In the department stores the
27 salesclerk is much more of an entrepreneur, is often
28 employed on a commission basis and for these reasons
29 I think identifies with management more closely than
30 they do in the grocery environment.

1 MR. POLLOCK: But in all the large
2 grocery chains, they are not all organized.

3 MR. McKICHAN: They are all, except one,
4 as Mr. MacIver prompts me.

5 MR. POLLOCK: Well, are the working
6 conditions in that one any different than the working
7 conditions in the others that are organized?

8 MR. McKICHAN: I think they would be
9 substantially the same.

10 MR. POLLOCK: And salary, the wages and
11 hours of work and all these things are the same?

12 MR. McKICHAN: It is a competitive
13 situation, I would imagine. The variations are small.

14 MR. POLLOCK: In relation to the
15 statutory minimum wage in the Province of Ontario
16 which is \$1.00 an hour, what would you say would be
17 the average wage in a department store or a grocery
18 store, if you can figure that out?

19 MR. McKICHAN: Perhaps MR. MacIver
20 could speak for the grocery stores first of all.

21 MR. MacIVER: Grocery stores would run
22 approximately \$85.00 for a 40-hour week on the
23 average on the bargaining unit type jobs.

24 MR. POLLOCK: That would include
25 cashiers and those kind of people?

26 MR. MacIVER: Yes. This is regular
27 full-time.

28 MR. McKICHAN: In the department store
29 area it would be lower than that. The large department
30 stores have as their own minimum which they establish

1 by way of company policy somewhere around I think
2 \$1.35 an hour, but the average would be considerably
3 above that for sales help. It would be of the order
4 of \$1.50 or thereabouts.

5 THE COMMISSIONER: Is the total
6 remuneration based upon the actual hours worked, or
7 is it a weekly or monthly salary?

8 MR. McKICHAN: It is generally hours
9 worked and, as I mentioned, in the department store
10 area in areas like fashions and other big-ticket
11 items the staff are often on a sales commission basis.
12 It is possible for salesmen in some of the high-value
13 departments to earn quite big salaries, such as
14 \$11,000 and \$12,000 as commission salesmen.

15 MR. POLLOCK: Those are the ones who
16 convince you your suit fits you whether it does or
17 not.

18 MR. McKICHAN: I guess.

19 MR. POLLOCK: Good, I think that gives
20 us some background to the organization.

21 MR. McKICHAN: Mr. Commissioner, what
22 we regard as the most significant recommendations we
23 make deal first with the treatment of the negotiation
24 and disposition of settlements in those industries
25 which we regard as liable to set a national or
26 provincial pattern, particularly those industries
27 which are either controlled by government directly
28 or which are so important in the national economy
29 that the government is very anxious to see a settle-
30 ment achieved. In this category of industry we

1 suggest a form of compulsory arbitration, rather
2 than the eventuality of a strike.

3 We deal with this matter on pages 2,
4 3, 4, 5 and 6 of our submission.

5 MR. POLLOCK: By those opening remarks
6 it appears that you are suggesting compulsory
7 arbitration for the pattern-setting industries, but
8 I don't think that is what your brief says. By that
9 I mean the steel industry is a pattern-setter. The
10 automotive industry is a pattern-setter. That is not
11 what you mean, is it?

12 MR. McKICHAN: I perhaps misled you
13 when I used the word "pattern-setting". I meant
14 patterns where settlements are often enforced by
15 government and as a result of the government having
16 enforced the settlement the settlement becomes a
17 pattern in itself.

18 MR. POLLOCK: In the recent history the
19 St. Lawrence Seaway employees.

20 MR. McKICHAN: This, sir, is what we
21 have in mind. Similarly, the railway industry is
22 another example of this type of thing.

23 We gave consideration to making our
24 recommendation wider, but the points we have
25 advanced represent a consensus of our committee and
26 in return our membership in this matter.

27 I think our next most important
28 recommendation ---

29 MR. POLLOCK: Might I stop you for a
30 moment on that one, unless you want us to return after

1 you have gone through them?

2 MR. McKICHAN: Perhaps it is easier
3 to take it as it comes.

4 MR. POLLOCK: You suggest as one of the
5 reasons for the elimination of strikes and lockouts,
6 one of the disadvantages of the present system is that
7 strikes and lockouts carry with them the threat of
8 violence and even where no violence occurs they may
9 in a short space of time destroy cooperative
10 attitudes developed by management and labour over a
11 long period of time. Well, isn't the fact that the
12 parties are on strike or locked out evidence that
13 these cooperative attitudes have broken down to some
14 extent?

15 MR. McKICHAN: I think this is probably
16 true, but I think it would also be true to say that
17 the atmosphere of the strike exacerbates this feeling.

18 MR. POLLOCK: Does it really do that,
19 or does it give the opportunity to the parties to
20 both blow off some steam and get their animosity out
21 of their system and then they can go back and behave
22 like rational people? Keep them under suppression
23 long enough and all kinds of things happen.

24 MR. McKICHAN: Well, I guess this is a
25 fairly subjective decision to have to make. Mr.
26 MacIver suggests that there may not necessarily be
27 an animosity between the company and the employees:
28 it may be animosity between the company and the union
29 as an entity.

30 MR. POLLOCK: There may even be animosity

1 between the union and employees.

2 MR. McKICHAN: Yes.

3 THE COMMISSIONER: On what basis now
4 could you have an animosity between a union and the
5 employees?

6 MR. McKICHAN: I would assume where
7 the union leadership is not in tune with the
8 employees whom they represent.

9 THE COMMISSIONER: They must deal
10 surely with the attitudes of the employees towards any
11 proposed action. They must have sympathy, they must
12 carry the men with them and their own members are
13 officers of the local union or may be.

14 MR. McKICHAN: I would assume that
15 as in any organization sometimes the management
16 becomes divorced from the people it represents.

17 THE COMMISSIONER: Yes, but isn't that
18 unusual? Wouldn't the first object of a union be
19 to gain and continue harmony with the dominant
20 opinion or voice of the employees?

21 MR. McKICHAN: I am sure this is the
22 aim of certainly the employees and also the management.

23 THE COMMISSIONER: Well, what examples
24 can you suggest where that has not been the case and
25 where there has been the internal animosity which
26 has led to some unforeseen results?

27 MR. MacIVER: Well, there is a case
28 came up about two years ago at Domtar where they
29 reached an agreement, the company and the union
30 negotiating committee, and there was an election of

1 officers within about two months after the settlement
2 and the membership voted 100 percent of the officers
3 out of office because they felt they had sold them
4 down the river. At the next settlement the same
5 thing repeated itself.

6 THE COMMISSIONER: In that case did the
7 negotiating committee have authority to conclude an
8 agreement?

9 MR. MacIVER: It was ratified by the
10 membership.

11 THE COMMISSIONER: And they repudiated
12 what they had ratified?

13 MR. MacIVER: That is right.

14 THE COMMISSIONER: There must be some-
15 thing wrong with the heads of these people in the
16 mass, rather than the leadership.

17 MR. MacIVER: We have had the same thing
18 happen in our organization to a degree, not 100
19 percent, but to a degree where the officers of the
20 union were doing what they felt the membership wanted
21 rather than getting down to the grass roots and
22 really finding out.

23 THE COMMISSIONER: Well, I suppose the
24 only way to find out is to consult. I can understand
25 at times there is a difference of opinion between
26 those who represent the union and the members of the
27 union. That may take place in any collective
28 organization, but those surely are the objects of all
29 concerned to eliminate as far as possible. They
30 must have harmony or the union ceases to function

1 really.

2 MR.POLLOCK: Of course, there are cases
3 where you will have a local of a union being perhaps
4 a settlement made affecting one local of a union
5 adversely because the general settlement would
6 benefit five or six other locals of the union. At
7 least that is the attitude that is engendered by
8 some of the membership, "We feel we are carrying these
9 people on our backs", or something like that. That
10 is probably another ground for animosity. Apart
11 from the outright sweetheart type of agreements and
12 corrupt practices of those kinds, there are these
13 general things like when the shoe gets a bit tight
14 they begin to get a bit concerned about it, but it
15 seems to me that the labour economists who studied
16 the post-war boom of strikes immediately in 1946,
17 1947, the reason that they suggest that that period
18 is atypical is because they say it follows after a
19 long period of, I don't want to say repression, but
20 supression, and that no matter what offers would have
21 been made in 1946 there would have been probably a
22 considerable number of strikes because of this
23 frustration built up during the war where things
24 were very tightly controlled.

25 MR. McKICHAN: I think this is
26 probably correct and I think also it is fair to say
27 that statistically Canada's strike pattern is quite
28 good on an international comparison. I think it is
29 also fair to say that the retail industry is probably
30 one of the most vulnerable industries so far as strikes

1 are concerned because of the economic damage suffered
2 by the employer in a strike situation. Because they
3 are dealing directly with the public, a strike of any
4 long duration is almost impossible to contemplate
5 for a retailer.

6 THE COMMISSIONER: Take the grocery,
7 have you ever had a strike in a large grocery
8 establishment?

9 MR. MacIVER: Not a general strike.
10 We have had one strike up in northern Quebec. This
11 was in 1961. It lasted 15 days, and it was disastrous.

12 THE COMMISSIONER: To whom?

13 MR. MacIVER: The company, not on the
14 basis of the settlement, but you see, first of all
15 you can't stockpile such as a manufacturer can.
16 Secondly, your housewife has a shopping pattern and
17 the housewives are basically our customers in the
18 grocery business. Once that shopping pattern is
19 broken she develops a new one and when you reopen
20 she already has a new shopping pattern developed
21 which she tends to follow.

22 THE COMMISSIONER: What suggests the
23 new pattern to her? She has not been doing anything
24 in the interim, has she?

25 MR. MacIVER: Well, our store is closed
26 and she has to buy groceries for her family.

27 THE COMMISSIONER: You have uncontrolled
28 stores that remain open?

29 MR. MacIVER: Or our direct competition
30 in the supermarket business too.

1 MR. POLLOCK: She starts buying Green
2 Stamps instead of Pinky Stamps.

3 MR. MacIVER: That is right, sir.

4 THE COMMISSIONER: Then you are simply
5 dealing with one group in that case. There is no
6 cooperation between employers?

7 MR. MacIVER: Oh, no. We each
8 negotiate independently and with different unions
9 also.

10 MR. POLLOCK: The I.G.A., are they
11 members of your association?

12 MR. McKICHAN: Some of their wholesale
13 and subsidiary retail units are. For instance, Oshawa
14 Wholesale is a member.

15 MR. POLLOCK: Well, they have had some
16 experience with strikes.

17 MR. McKICHAN: I think their experience
18 has been similar to that related by Mr. MacIver: it
19 has been very drastic. I know this is also the
20 experience of those of our members in western Canada
21 who from time to time have suffered strikes and they
22 have suffered very heavily in loss of business as a
23 result.

24 THE COMMISSIONER: Would you mind just
25 explaining, it is not such a vital question, but you
26 say the pattern has changed. What change? What is the
27 nature of the change?

28 MR. MacIVER: The change is the
29 customer --- take, for example, is used to shopping
30 at, say, our store on Thorncliffe and that store is

1 closed for, say, X weeks. During the time that that
2 store is closed she is going to develop a pattern of
3 shopping one of our competitors.

4 THE COMMISSIONER: The pattern might
5 be on another street or another store with other
6 clerks and another mode of display.

7 MR. MacIVER: Right.

8 THE COMMISSIONER: Well, now, the
9 question is does she return to you or does she
10 maintain that association?

11 MR. MacIVER: A large percentage return
12 to us, but an amazing percentage stay with the retail
13 outlet that they have gone to while our store is
14 closed.

15 THE COMMISSIONER: That is the difference
16 in the pattern?

17 MR. MacIVER: This is what I meant, sir,
18 by the shopping pattern.

19 MR. POLLOCK: As I understand, if
20 anybody does, women shoppers ---

21 MR. MacIVER: I don't.

22 MR. POLLOCK:one of the difficulties
23 is knowing where things are in a new store and once
24 you have had an opportunity of finding your way around
25 and things become familiar and although some items
26 may be cheaper in some places generally, the industry
27 is extremely competitive and once they have broken
28 this barrier of the unknown, then if it is just as
29 convenient as far as driving five blocks east or
30 five blocks west is concerned they will take this new

1 pattern.

2 MR. MacIVER: Yes.

3 MR. POLLOCK: They may even like the
4 variety.

5 THE COMMISSIONER: And they may not.

6 MR. MacIVER: They may not.

7 THE COMMISSIONER: It is one of the
8 vagaries of human beings.

9 MR. POLLOCK: We can talk about this a
10 little further I think when we get into the question
11 of picketing and those effects. I think your brief
12 points out a type of, well, essential industry, I
13 suppose, is the general characterization where
14 compulsory arbitration ought to be imposed or continue
15 to be imposed and you make a suggestion that there
3 16 ought to be a permanent arbitration board established
17 to deal with these situations rather than the ad hoc
18 relationship that we now have.

19 MR. McKICHAN: Yes, sir.

20 MR. POLLOCK: Have you given any
21 consideration to the selection of these people
22 outside of the fact that you say it should be
23 representative of both management and labour and
24 chaired by a neutral party having access to appropriate
25 economic data and research staff? Why do you suggest
26 that it ought to be this tripartite board?

27 MR. McKICHAN: I think, sirs, it is
28 a case of considering and eliminating other
29 possibilities. This seemed to us a form of board
30 which would be acceptable to the parties involved

1 and to the general public. I don't think we would be
2 bound to abide by this if some better alternative
3 were suggested.

4 MR. POLLOCK: Well, let me suggest an
5 alternative and you can tell me whether or not you
6 think it is better. What about having three neutral
7 parties instead of having a representative of one and
8 a representative of the other with a neutral chairman?
9 I take it the selection of these would be on the
10 basis not only of neutrality, but on the basis of
11 competence. Many people are neutral because they don't
12 know anything about it, but the experience that we
13 have seen with the three-man board in any type of
14 situation, and especially in labour relations, is that
15 the union nominee sides with the union who nominated
16 him and the company nominee sides with the company
17 who nominated him and you have got the decision of a
18 single man. In very rare cases do you find that
19 there is general agreement between the three of them.
20 You have got a majority decision ---the left and the
21 right-hand bowers really don't get an opportunity to
22 exercise that independence of decision that an
23 independent, neutral, unaligned third party can bring
24 to bear on a situation.

25 MR. McKICHAN: Well, certainly we
26 regard the neutrality aspect as important, but I
27 think we conceived all the type of personnel who might
28 fill this job as being either a statesman of the
29 labour movement or a statesman of the management
30 movement to the extent where they could leave at least

1 some of their partisan attitudes behind, but I think
2 perhaps your suggestion would be an improvement if
3 one could find people sufficiently knowledgeable to
4 understand the issues and to make decisions accordingly.

5 THE COMMISSIONER: Of course, they might
6 have originated in labour, they might have originated
7 in management. It is a seeking after the capacity
8 of competence.

9 MR. McKICHAN: It was our hope that the
10 people would be of sufficiently high level that there
11 would not be any strong partisanship.

12 THE COMMISSIONER: If they have the
13 capacity to grow they do grow in the course of
14 administering work of that sort.

15 MR. McKICHAN: Yes.

16 MR. POLLOCK: I suppose as a practical
17 matter the way our labour relations is presently
18 organized you either get your experience with labour
19 or you get your experience with management. Some
20 trade around and there is that facility, but that
21 has clarified your position. I thought that you
22 wanted a representative of one side and a representative
23 of the other side who would be directly responsible
24 to those people in much the same way as the Labour
25 Relations Board of Ontario is presently constituted.

26 MR. McKICHAN: I think we really hoped
27 to achieve absolute neutrality as far as it was
28 possible and suggested this merely as a source for,
29 as you say, the skills.

30 THE COMMISSIONER: The public is vitally

1 interested in the very activity that you represent in
2 every way ---- price, quality, access and one thing
3 and another.

4 MR. McKICHAN: That is true.

5 MR. POLLOCK: It is suggested that
6 in this type of arbitration, you raise this in your
7 submission, that if you are going to have some
8 determination of wages, then you are going to have to
9 have some determination of prices. I don't know
10 whether you are going to get into this later or
11 whether we are now going past this question, but you
12 suggest some guidelines at least that ought to be
13 considered or some factors, guidelines established
14 by a national body, an economic council, productivity
15 of industry in which the dispute occurs, productivity
16 of the firm, relationship of the wage levels in
17 comparable industries and the prevailing wage rates
18 in the area. I suppose you do take into account the
19 nature of the occupation when you look at the
20 prevailing rate or the comparative wage levels in
21 other industries, but that perhaps is the most
22 perplexing problem of them all: how much is a
23 carpenter worth in comparison to a plumber? How much
24 is a shopkeeper worth in comparison to a lab
25 technician?

26 THE COMMISSIONER: If you could give the
27 keys to those questions, you would serve a great
28 purpose for this Commission.

29 MR. MacIVER: If I had the keys to those
30 questions, sir, I would not be here.

1 MR. McKICHAN: Yes indeed, sir, we
2 recognize the inherent difficulties here and I suppose
3 as society changes the respective barriers which
4 society places on the particular job change, so it
5 is an area where the board needs the wisdom of Solomon
6 to keep in touch with society's attitudes.

7 THE COMMISSIONER: Solomon would have
8 had a hard job if he had had anything to do with
9 any labour disputes.

10 MR. POLLOCK: It is an interesting
11 suggestion and I think you point out very sensibly
12 that this type of system has to be acceptable, has to
13 be able to prove itself. Right now mostly people who
14 are talking about this system are casting back on an
15 imperfect experience because they have not had an
16 opportunity to see this type of system in operation
17 and they are conjuring up all kinds of difficulties
18 which may or may not occur. It is a question of
19 testing them out. If it becomes acceptable, it may
20 very well spread. If it does not become acceptable,
21 it may have to phase out.

22 MR. McKICHAN: This is what we
23 suggest in our submission, sir.

24 MR. POLLOCK: Unless you take into
25 consideration the personal guidelines and don't take
26 into consideration the cost of living?

27 MR. McKICHAN: I think this was implicit
28 in the guideline suggestion.

29 MR. POLLOCK: Well, that takes me to
30 page 6, so if we are both there or if you want to

1 make any comments in the interim.

2 MR. McKICHAN: I have nothing further
3 to add on that section.

4 On our next point, Mr. Commissioner,
5 we have suggested that perhaps one of the most
6 significant possible solutions is our later suggestion
7 dealing with the legal constitution of trade unions.
8 If it is your wish, perhaps you would like to deal
9 with that subject when we cover that point.

10 THE COMMISSIONER: What page is this
11 question on?

12 MR. McKICHAN: This is at the bottom of
13 page 7, but our comments on the legal position of
14 unions is dealt with on page 12.

15 MR. POLLOCK: Before we get that far
16 a question was asked whether or not there was a
17 balance of power between the unions and the company
18 so far as the law is concerned with the exception of
19 the relative economic strength that they happen to
20 possess themselves and which a large company and a
21 small company and a large union and a small union
22 keeping those aside, the law provides certain
23 procedural techniques for organization of employees,
24 Union, union representation votes, picketing when it
25 is allowed, when you can do these different types of
26 things, when you can go on strike. It has been
27 suggested that apart from the requirement of the
28 employer to bargain with a certified union in good
29 faith and to refrain from interference with the union
30 in its internal operations that most of the

1 restrictions are against the union, that it has to
2 satisfy these requirements, it has to have such a
3 percentage, it has to make an application to prove
4 its case, and then go through the procedure of
5 bargaining which the company has to do. Then it goes
6 through the conciliation steps and has to have
7 a strike vote, goes on strike, can only picket in
8 certain places, can only do certain things, whereas
9 the company is relatively free to at least after the
10 time of strike sub-contract all the work out, hire
11 new employees, take all these other steps that are
12 not available by nature to the union. What do you
13 have to say about that? I should point out that some
14 of these questions may or may not have been considered
15 by your organization and if you feel that you want to
16 separate yourself from the association which you can't
17 speak for, then do so. We would like to have your
18 thoughts as men of labour relations experience.

19 MR. MacIVER: It is our view that
20 between the law the way it is written and the way it
21 is applied that it works much more for union than it
22 does for management because during the organizing
23 campaign the union is unrestricted as to what it
24 says about the company or the employees or the union,
25 whereas the company is very closely restricted. In
26 our business where we have a relatively small number
27 of employees per unit a strike is not costly for the
28 union, but is extremely costly for the company which
29 creates an imbalance.

30 MR. POLLOCK: Well, I suppose the union,

1 what you say is they can make all kinds of promises
2 and the employer is restricted from making promises.
3 Of course, that often backfires that the pie in the
4 sky promises if you don't deliver them and the
5 delivery is controlled by the employer, he either says
6 yes or no --- if he says no, the union says, "We are
7 going to get you \$2.50 an hour", and they don't get
8 it, they soon become disenchanted with the union.
9 So that there is some measure of reality in the
10 union's position. In some cases there isn't and
11 they blow their brains out and there is no doubt about
12 it. What is the interest of the employer --- this
13 may seem like a naive question --- in keeping the
14 union out of the plant or store?

15 MR. MacIVER: We do not make any attempt
16 to keep the union out of the store. It is our
17 position that if our employees want to join a union
18 we immediately have a meeting with our supervision in
19 that area and tell them not to say one thing one way
20 or another: they have no opinion whatsoever about
21 the union as such or about a union in particular.
22 This is what we do very promptly when we hear of
23 union activity.

24 THE COMMISSIONER: That is a question
25 I was going to ask you just as to your attitude
26 towards unionism. I gather you accept it as a fact
27 in modern relations of employer and employee?

28 MR. MacIVER: Yes, sir.

29 THE COMMISSIONER: It seems to me
30 it is just fighting against an irresistible tide to

1 take any other position because the mass of people
2 are going to work and they are going to look for
3 employment, the responsibility is in the employment
4 to maintain the services to the public they speak
5 about and which have become real services --- supply
6 the public with those means that are looked upon as
7 necessary to the ordinary life. It is a satisfaction,
8 I might say to you personally, to see that there is
9 recognition. The thing to do is to recognize this
10 as an essential and then to keep its action within
11 the bounds of reasonableness.

4 12 MR. POLLOCK: Mr. MacIver, you are
13 speaking of your own experience of your company?

14 MR. MacIVER: Yes, I am talking about
15 the company.

16 MR. POLLOCK: There are, and I think
17 I can make this general statement with some degree
18 of certainty, members of your organization or at
19 least the Council who do not share that particular
20 enlightened view if you believe the reports of
21 inquiries into unfair labour practices and union
22 discouragement and things like that. I don't think
23 this is the prevalent attitude, but I think there
24 are some people who still feel that the unions are
25 inimical to their operation of the store.

26 MR. MacIVER: Where you have as many
27 members as there are in the Council, sir, you are
28 bound to have a divergence of views.

29 MR. McKICHAN: This is correct, and
30 I think it is also fair to say that a great many of our

1 members have no experience with unions in that they
2 have never faced the situation of having a union being
3 organized or employees being approached by a union.
4 Many of them also have units so small that it is not
5 really practical for a union to operate and the
6 employees in these situations, as I mentioned before,
7 often feel themselves part of the management team,
8 although as a fact they are employees.

9 MR. POLLOCK: In Toronto, for example,
10 the three large department stores --- Morgan's,
11 Simpson's and Eaton's, are they organized?

12 MR. McKICHAN: No. I think some of
13 their drivers and stationary engineers and so on are
14 organized, but so far as the rank and file employees
15 are concerned they are not.

16 MR. POLLOCK: And for the several
17 reasons you have given at the opening perhaps those
18 reasons apply why they are not organized, but I
19 recall, and you can correct me if I am wrong, that
20 there were some organizational attempts which were
21 met head-on by activity which, if not contrary to the
22 letter of the Labour Relations Act, was probably
23 characterized as contrary to the spirit of it. There
24 was a vigorous opposition to the organization.

25 MR. McKICHAN: I can't speak to this,
26 sir, in that I have no direct knowledge of the
27 situation.

28 MR. POLLOCK: But those plants would not
29 suffer from the smallness of size to make it not
30 worthwhile to organize.

1 MR. McKICHAN: Oh, no, indeed. In
2 their cases I think the factors are much more as I
3 mentioned, the high prevalence of part-time employees,
4 the large number of women employed, often married
5 women, and the large number of supervisory employees
6 within the group.

7 MR. POLLOCK: Would you say as a
8 general rule, if you can make generalizations, that
9 the employees, sales personnel in these three stores
10 would be getting as good or better than the average
11 sales person in the smaller places?

12 MR. McKICHAN: There they would be
13 getting better, significantly better.

14 MR. POLLOCK: So that perhaps if they
15 examine their wage structure in comparison to the
16 general wage structure for the retail sales industry
17 they look at themselves as getting pretty good
18 treatment in that limited scope.

19 MR. McKICHAN: Yes, and I think taking
20 business and industry and so on as a whole their
21 fringe benefits are also very significantly ahead of
22 the provincial average.

23 MR. POLLOCK: In those places where
24 the conditions are poor, the numbers are too small
25 and the difficulty of organizing is too great, the
26 converse would be probably true and they would be
27 largely organized.

28 MR. McKICHAN: That is correct.

29 MR. POLLOCK: Have you got anything you
30 wish to discuss between page 8 and page 12?

1 MR. McKICHAN: I don't think there is
2 anything that warrants special comment.

3 MR. POLLOCK: I would like to ask you
4 about what you understand to be a secondary boycott
5 What is a secondary boycott?

6 MR. McKICHAN: We construe it as a
7 situation where a union either picketed the supplier
8 or some other business organization having a connection
9 with the employer against whom their grievance was
10 directed or else the failure to handle merchandise
11 directed to or coming from the supplier or some other
12 harrassment of this nature.

13 MR. POLLOCK: What if it is the same
14 employer and it is just an outlet of this employer?
15 For example, if we can take Eaton's who have a
16 warehouse and perhaps the warehouse employees are on
17 strike and they are picketing the warehouse, can they
18 also picket the stores of Eaton's?

19 MR. McKICHAN: Are you thinking of the
20 area where this is a separate bargaining unit and
21 perhaps a separate union?

22 MR. POLLOCK: Yes. I should not say
23 should they picket it, but is that what you
24 characterize as a secondary boycott?

25 MR. McKICHAN: That would be a secondary
26 boycott in my opinion, sir.

27 MR. POLLOCK: If they picket it is
28 secondary because of its location, is it? The entity
29 is the same.

30 MR. MacIVER: It is secondary from two

1 points of view. Well, I can give you an actual
2 example that we had, but it did not result in a
3 secondary boycott, but could have. A year ago our
4 Toronto warehouse was on strike. We had a collective
5 agreement in effect with another union covering the
6 stores. The warehouse union sent flying pickets out
7 to various stores and the second union closed the
8 stores. This, in my opinion, would have been a
9 secondary boycott. You can get it fully or partially.
10 You can also get the union at the store coming in
11 and saying, "Such and such a company is on strike. If
12 you handle the products of that company, we will go
13 out on strike."

14 MR. POLLOCK: Well, in the first part of
15 your example you look to almost the result to
16 determine whether it is a secondary boycott. If, for
17 example, your employees for the warehouse had come
18 down to the store and one person there with a sign
19 saying "The employees of Steinberg's Warehouse are on
20 strike", and the employees in the store didn't go out,
21 they still worked, it may have had some effect on
22 those union people who lived in the neighbourhood so
23 that they may not shop at Steinberg's. Is that a
24 secondary boycott?

25 MR. MacIVER: No, sir, that is
26 informational picketing in my view.

27 MR. POLLOCK: In the second case where
28 you sell a particular product, a brand product and
29 where the plant is on strike and successfully, I
30 suppose, if they are still producing, and the union

1 that is on strike there says, "X brand which you
2 handle is on strike, would you kindly refrain from
3 selling that product?", and if you refuse to, they
4 will say, "Well, we will put an informational picket
5 out front saying that "X brand that is sold at
6 Steinberg's is on strike". Would you say that was
7 secondary?

8 MR. MacIVER: No, sir.

9 MR. POLLOCK: That is all right as well?

10 MR. MacIVER: I don't say it is all
11 right.

12 MR. POLLOCK: But that is not what you
13 call secondary picketing.

14 MR. MacIVER: No.

15 MR. POLLOCK: You suggest here you
16 believe specific legislation should be introduced
17 forbidding secondary boycotts. Again this may not be
18 applicable to your particular industry, but if you
19 were engaged in the manufacture of something or the
20 distribution of something and your distributing
21 employees were on strike and you sought to have this
22 distributed from another source to your customers,
23 would you permit them, your employees, to picket that
24 place? You have taken the job function that is under
25 dispute out of your plant and moved it over to another
26 place. Would you let them picket? Do you think that
27 that would be the type of legislation or that that
28 ought to be the type of activity that by legislation
29 ought to be prohibited?

30 MR. MacIVER: If the employees of one

1 plant are on strike they should be prohibited from
2 picketing another plant.

3 MR. POLLOCK: But what if the physical
4 structure of your plant is still there that the work
5 over which the dispute arises, the remuneration for
6 doing this type of work, has been for the duration of
7 the strike transferred to some other place, to some
8 other --- well, let us take for example, your
9 organization where you may have three or four ware-
10 houses in the city. I don't know whether you do or
11 not, but somebody must have that situation of two,
12 and one unit is on strike and they decide to take all
13 the warehousing for the whole city out of this other
14 warehouse that is not on strike. Can the employees
15 of the warehouse that are on strike go and set up an
16 informational picket line at the other warehouse?

17 MR. MacIVER: There is nothing from my
18 point of view to prevent an informational picket
19 line, but the problem is that the tendency on picketing
20 is to go beyond informational picketing and I submit
21 that this should be restricted.

22 MR. POLLOCK: Assuming that that is
23 what happens, is that they put up an informational
24 picket line and they don't do anything else, they
25 have a sign, one man marches up and down and the
26 employees or the customers or whoever happens to be
27 there, the truckdrivers, don't want to cross that
28 picket line, it is still an informational picket line:
29 it is the reaction of the other people to it which
30 may cause you some problems. Would you then say that

1 their activity is wrongful, the picketers?

2 MR. MacIVER: Well, take your first
3 case. If there is one picket and the employees refuse
4 to cross the line or go to work I assume that the
5 condition you are talking about is that there is another
6 collective agreement covering that facility.

7 MR. POLLOCK: That is correct.

8 MR. MacIVER: Then I submit that the
9 union has a dual responsibility with the company in
10 getting those employees to go to work.

11 MR. POLLOCK: The other union, the
12 union that isn't on strike?

13 MR. MacIVER: That is right.

14 MR. POLLOCK: Not only a responsibility,
15 they have a legal duty, but you don't visit any
16 illegality on the picket who is communicating that
17 information that they are on strike at some other
18 place?

19 MR. MacIVER: If he is on public
20 property and it is informational picketing I can have
21 my views on it, but it is not going to do me any good.

22 THE COMMISSIONER: But it would still be
23 recognized as establishing an imaginary line which
24 may result in the employees refusing to cross it.
25 So if you are prepared to condemn that, I think you
26 must logically condemn the the fact of appearing at
27 all there with a picket, so to speak.

28 MR. McKICHAN: I think, Mr. Commissioner
29 it is fair to say that our committee in considering
30 this point has not directed its attention to intra-

1 company activities. They had been thinking of the
2 effect on a supplier or a receiver of merchandise
3 and this type of thing. They had not really given
4 consideration to things happening within the company.
5 Here I am relying on Mr. MacIver's practical
6 experience to answer that.

7 MR. POLLOCK: Well, in the case that is
8 the classic in Ontario now on secondary picketing,
9 the Hersey's of Woodstock versus Goldstein, I don't
10 know whether Mr. Hersey is a member of your organization
11 or not.

12 MR. McKICHAN: No, he is not.

13 MR. POLLOCK: But in that situation
14 where they put up a sign and one or two people walked
15 in front of the store which said, "Attention, Shoppers,
16 Deacon Brothers Shirts are sold at Hersey's. Please
17 do not purchase them", or something like that is
18 that type of conduct legitimate?

19 MR. McKICHAN: I don't think it is
20 legitimate, but the way the law is now I don't see
21 anything to prevent it.

22 MR. POLLOCK: Well, they did it, they
23 got an injunction, that is how they prevented it.

24 MR. MacIVER: I don't think it is
25 legitimate, sir.

26 MR. McKICHAN: We felt this should not
27 be permitted by law.

28 MR. POLLOCK: You say on the same page,
29 going down now to the temporary or permanent hiring
30 of replacements you have to retain management's freedom

1 to hire alternative employees at rates comparable to
2 those being paid for similar activities in the
3 community. What is the basis for that philosophy, if
4 there is one?

5 MR. McKICHAN: I think, sir, basically
6 a strike is regarded as a test of economic strength.

7 MR. POLLOCK: Well, that is what you
8 mean by "economic strength". It is not how rich the
9 employer is and how rich the union is, is it?

10 MR. McKICHAN: No, perhaps that is an
11 unfortunate way of putting it.

12 MR. POLLOCK: Economic reasonability.

13 MR. McKICHAN: Yes, perhaps.

14 THE COMMISSIONER: There could be
15 public unions who are not connected with profitmaking.

16 MR. McKICHAN: I think a lot of it has
17 to do with the public attitude towards management and
18 non-management.

19 MR. POLLOCK: Well, your appeal in this
20 case is apparently to the labour market; the union is
21 saying, "We want \$2.50 an hour", you are saying, "We
22 are going to give you \$1.80 an hour because that is
23 what we know we can attract your skill, your level of
24 skill to this employment for \$1.80 an hour in this
25 community, and we are prepared to pay that". That is
26 the economic reasonability that you are putting the
27 union to the test on.

28 MR. McKICHAN: Our feeling is first of
29 all before management gets into a strike situation it has
30 presumably given very serious consideration to the

1 union's requests and the effect this would have on
2 their earnings picture, and it would only enter a
3 strike realizing it is going to suffer at least some
4 immediate and probably severe economic downturn.
5 Having made this decision, it seems to us that then
6 management has an opportunity of testing the
7 reasonableness of its position by going out into the
8 labour market and seeing what skills it can recruit
9 for this type of money. It was our feeling that it
10 should be permitted to do this.

11 MR. POLLOCK: I suppose that both
12 parties knowing that temper the demands.

13 MR. McKICHAN: This was our feeling, yes.

14 MR. POLLOCK: Now, if we can turn to
15 some of the submissions you make on picketing, we
16 have already discussed secondary picketing probably.
17 On the bottom of page 9 you suggest that picketing
18 should be limited to the role of conveying information.
19 It should not be used to discourage customers,
20 suppliers or employees from entering the struck
21 premises. Well, surely isn't the role of a person
22 who conveys information one of advocacy? Isn't he
23 trying to persuade somebody not to do something that
24 he feels strongly about?

25 MR. McKICHAN: When we used the word
26 "discourage", I think we had in mind physical
27 discouragement, rather than mental or rational
28 discouragement.

29 MR. POLLOCK: So that you would suggest
30 that so long as the activity is peaceful and there are

1 no threats of violence or any of these other types of
2 things or reasonable suspicion that these things will
3 arise that they ought to be able to persuade to their
4 heart's content.

5 MR. McKICHAN: Yes, sir.

6 MR. POLLOCK: Would you limit in any way
7 the numbers of people that can be employed as pickets
8 given the exception that you can't physically block,
9 you couldn't on store frontage of 100 feet put 5,000
10 people, or something like that?

11 MR. McKICHAN: I think we would, sir,
12 because the mere fact that a great number of people ---

13 MR. POLLOCK: How many is that?

14 MR. McKICHAN: Well, this must be
15 determined in relation to the situation such as the
16 size of the plant and the number of employees
17 involved, and so on.

18 MR. POLLOCK: Let us take Steinberg's
19 store in a shopping centre. I don't know what your
20 frontage is there, about 200 feet, 300 feet, 500 feet?

21 MR. MacIVER: It varies quite a lot, sir.

22 MR. McKICHAN: Let us say it is three
23 or four pickets in that situation. That would not
24 appear to be intimidatory, but on the other hand, 50
25 would. Although their avowed intent was only to
26 disseminate information, the mere fact that there were
27 50 people there we think would convey at least a
28 threat of physical force and somewhere we believe
29 there has to be a determination of what is reasonable
30 for the sake of conveying information because the mere

1 presence of a great many people, we feel does have
2 another connotation.

3 MR. POLLOCK: Well, it also has an
4 additional factor in that the more people you have
5 there within reasonable limits the more persuasive
6 you might be able to be as far as popular rational
7 appeal is concerned. If you have one crank standing
8 on the corner trying to tell you something and if
9 you have several people who appear to be supporting
10 him you say, "Well, at least there are five people who
11 think he has a position" or 25 or 50 people are
12 supporting him and it is just not some isolated
13 crackpot or, as is sometimes suggested, it is not the
14 union leadership that are involved, it is the whole
15 number of individuals.

16 MR. McKICHAN: Yes, I think this is a
17 case where a balance has to be struck, on the one hand
18 between giving the union an opportunity to demonstrate
19 its solidarity and on the other hand to prevent the
20 appearance of physical intimidation.

21 MR. POLLOCK: You have to form more or
22 less compromise.

23 MR. McKICHAN: Yes.

24 THE COMMISSIONER: If it is well organized
25 generally there is no occasion for it. People are too
26 sophisticated these days to go by a sign without
27 knowing what it signifies. In the ordinary case of an
28 industry, of course, the public really isn't interested
29 individually at all.

30 MR. McKICHAN: No.

1 THE COMMISSIONER: The information is
2 relevant to the employment of outsiders. They may
3 not conceivably know that there is a strike, but it
4 doesn't take very much to indicate that there is, and
5 if there is that solidarity that you speak of, then
6 there would be no trouble, because they won't enter
7 into arrangements to defeat a strike, they won't go
8 into the employment.

9 MR. McKICHAN: I think your point is
10 well taken, sir.

11 MR. POLLOCK: In the retail trade
12 where you are dealing mostly with the customers, if
13 they come in your business carries on: if they don't
14 come in, your business doesn't carry on, and you do
15 not to any extent have home delivery anymore --- I don't
16 know whether you do or not --- but if, for example,
17 you could and you have probably had this experience
18 in your industry, carry on the operation of, well, it
19 is a self-service type of operation, I suppose you
20 have to have people keeping the goods on the shelves,
21 but if you had a certain percentage of people staying
22 back that didn't go on strike and the rest of your
23 people were on strike from your own experience would
24 the picketing, three, four, five or whatever it
25 happened to be conveying the information that there
26 is a strike on at your store, keep the people away
27 generally?

28 MR. MacIVER: Well ---

29 MR. POLLOCK: I suppose that it depends
30 on where it is. If it was in Oshawa it would close up

1 MR. MacIVER: Very effectively, sir.
2 It depends on the area. There are some areas where
3 we have stores that if there were informational
4 picketing it would not markedly affect our business.
5 There are other areas where it would very effectively
6 just close us down.

7 MR. POLLOCK: In addition I assume from
8 your answer to my opening question that it would
9 depend on the labour content of the area, the trade
10 union element in the area.

11 MR. MacIVER: Yes.

12 MR. POLLOCK: Would it also depend on
13 the available alternatives? For example, you are in
14 a location and on one corner is Dominion and on the
15 other corner Steinberg's; if Steinberg's was struck
16 even in a non-union area would people go to the other
17 store which was equally convenient?

18 MR. MacIVER: There would be a tendency
19 to, yes.

20 MR. POLLOCK: But if it was farther
21 away the more inconvenience of having to go three or
22 four more blocks, then they are not that solid as far
23 as refusing to cross is concerned?

24 MR. MacIVER: Where it is not
25 predominantly union people.

26 THE COMMISSIONER: It is a sort of
27 view, "A plague on both your houses"; they don't want
28 to be bothered with that.

29 MR. POLLOCK: From your experience have
30 you discussed this with customers, have you tried to

1 determine what their attitude was to a picket line,
2 whether they didn't want to cross because they
3 supported the union or they didn't want to cross
4 because they didn't want to take sides or what? Have
5 you ever been able to find out what goes through
6 people's minds in a store?

7 MR. MacIVER: We have never tried to
8 find out, sir.

9 MR. McKICHAN: I think, sir, this is
10 a common experience of the trade. There are very few
11 stores which have attempted to open when faced with a
12 strike, this despite our recommendation which was
13 made more on a philosophical basis than on a practical
14 basis, because I think most of them feel themselves
15 too vulnerable to physical damage of their stock and
16 property in the high feelings that may run during a
17 strike to attempt to open.

18 MR. POLLOCK: I know in some cases these
19 techniques of filling up shopping carts and abandoning
20 them at the checkout counter, that type of thing?

21 MR. McKICHAN: Yes.

22 THE COMMISSIONER: What is that?

23 MR. POLLOCK: The strikers go in and
24 fill up the shopping carts with the goods and then go
25 and just leave them at the counter and jam up the
26 thing.

27 THE COMMISSIONER: That is an extension
28 of the picket line, a pickup line.

29 MR. MacIVER: One of the favourite things
30 to pick up and leave in the lineup is frozen foods.

1 THE COMMISSIONER: Do they do that?

2 MR. MacIVER: Yes, sir.

3 MR. McKICHAN: This has occurred, I
4 think, several times, particularly in western Canada.

5 THE COMMISSIONER: Has it really?

6 MR. POLLOCK: The westerners are very
7 ingenious.

8 Maybe we can take a short break at this
9 time.

10
11 ---short recess.

12
13 MR. POLLOCK: Have you any recommendations
14 as to some of the procedural matters as far as
15 injunctions are concerned? Some of these are pretty
16 well explicit in your brief. I don't have any
17 questions arising out of these submissions you make
18 in relation to injunctions unless you have something
19 you wish to say.

20 MR. McKICHAN: Simply to say, sir, that
21 we were sympathetic to the arguments of labour that
22 the ex parte procedure gives them no right of rebuttal
23 prior to the granting of an injunction which may
24 constitute a critical turning point in the success or
25 failure of the strike, and in our suggestion we
26 attempted to remove this criticism by providing for a
27 rapid hearing, although we realize there are
28 mechanical difficulties in organizing this. We hoped
29 they could be overcome.

30 MR. POLLOCK: Well, now, that takes us to

1 a consideration of a topic that is dear to many
2 hearts, the enemy in some. It is the question of
3 some incorporation of unions and making them liable
4 to suit in the Province of Ontario. You suggest
5 in your brief that the Ontario law should provide
6 for the establishment of trade unions as full legal
7 entities, capable of suing or being sued, and
8 accepting vicarious responsibility for the acts of
9 their officers and employees falling within the
10 latter's ostensible duties. Now, what about members?
11 In "officers and employees" do you discuss membership
12 in that aspect?

13 MR. McKICHAN: Our committee in
14 considering this felt that it is obviously difficult
15 for the union management to control the acts of its
16 individual members and we doubted whether such a
17 provision would in fact be wise in the circumstances.

6 18 MR. POLLOCK: Well, in many of the
19 circumstances that have been put before the
20 Commission and in many of those cases in which a
21 cause of action would arise it isn't the president
22 of the local union or the union organizers who
23 cause some of the difficulties that are complained of
24 as the people who cause some violence if there is
25 violence, or physical destruction of the property
26 or engage in illegal activities. By and large those
27 people are generally responsible or in a position
28 to better understand the laws as they exist. It is
29 these hotheads that they talk about, the people on
30 the line who get emotionally worked up or who take

1 some activity into their own hands. The usual
2 suggestion that has been made is that where this
3 type of activity, although perpetrated by individual
4 members, is encouraged or supported by the union,
5 it is the union then that ought to be liable. What
6 do you say about that?

7 MR. McKICHAN: I think, sir, this would
8 appeal to the thinking of our members. If the action
9 is, as you say, condoned by leadership then perhaps
10 it is reasonable to saddle the union with the
11 responsibility. It is difficult, I suppose, to prove
12 the condonation.

13 MR. POLLOCK: Well, in some cases it
14 isn't: in some cases the activity --- people are told
15 and not wisely guided by the leadership and certainly
16 not in the majority of circumstances, in the minority
17 of cases, and in other cases there are at least
18 suggestions that it is, if not actively supported
19 then passively condoned. The argument that is then
20 put forward is that if a union doesn't take a
21 positive stand against this unlawful or unsanctioned
22 activity, then perhaps they ought to be held liable
23 for that failure. Clearly they can't be the
24 guarantor of anybody's conduct. They can take
25 whatever steps they can do to head it off.

26 MR. McKICHAN: I think your suggestion
27 that if by active or passive conduct they condone or
28 appear to condone the action of the individual or
29 group of employees which is illegal or which is
30 tortious, then I think our membership would agree that

1 this should be the union's responsibility.

2 MR. POLLOCK: The difficulty, of course,
3 is that union membership is generally open to all
4 employees in the operation and that the union does
5 not have an opportunity of choosing which people they
6 are going to accept in a union. That in general
7 circumstances is the responsibility of management in
8 hiring them, and in some cases they feel they are
9 saddled with a group or an element of people whom they
10 couldn't control and would not want to be responsible
11 for.

12 MR. McKICHAN: It was for this reason
13 that we did not suggest strict membership liability.

14 MR. POLLOCK: You suggest a rather
15 interesting control of the commencement of proceedings
16 against unions. I might say as background that one
17 of the submissions that the unions have made is
18 that against this type of liability for suit the
19 employer will then litigate them out of business,
20 that is, commence actions repeatedly and without much
21 justification just to keep their legal costs high in
22 a high position and deplete their treasury. You
23 suggest here that those seeking to sue a union should
24 be required to obtain a fiat from the Attorney General
25 and in this event the only reason for the Attorney
26 General denying the request would be the apparent
27 vexatiousness of the intended legislation. Well, that
28 is some kind of a check on this. It may prove
29 unworkable because in a large number of circumstances
30 the present consent to prosecute type of legislation

1 that exists in this province is something that the
2 employers object to. They feel that if they think
3 they have an action they ought to be able to go
4 without having some other intermediate party, in this
5 particular case the Labour Relations Board who say,
6 "No, you can't" or "Yes, you can". What do you think
7 about that?

8 MR. McKICHAN: Well, first of all, I notice
9 there is a misprint in the last word of that paragraph.
10 The word should not be "legislation", it should be
11 "litigation". On your suggestion we put forward this
12 suggestion with some considerable reservations because
13 we were not keen to have to be required to go through
14 an intermediate procedure and we did not feel that
15 if an intermediate procedure was decided to be
16 necessary that that intermediary should be the Labour
17 Relations Board, because we felt they were perhaps
18 too close to the competing views of management and
19 labour in any given situation. It was for this
20 reason that we suggested the Attorney General's
21 Department and we suggested also that it be quite
22 specifically provided in the legislation that
23 the only reason that the fiat might not be granted
24 would be the apparent vexatiousness of the legislation.

25 THE COMMISSIONER: You have no
26 experience actually in that sort of vexatiousness,
27 as you call it, have you?

28 MR. McKICHAN: This is a point which
29 is more often raised by labour.

30 THE COMMISSIONER: Because you couldn't

1 bring the union into civil court.

2 MR. McKICHAN: NO, we have no experience
3 with that.

4 THE COMMISSIONER: This is all
5 speculative.

6 MR. McKICHAN: Oh, indeed. It was
7 simply that we attempted to meet and overcome ---

8 THE COMMISSIONER: The only thing it
9 seems to me that appears to be relevant is that in the
10 matter of a penalty proceeding the employer in the
11 vast majority of cases wipes that all out by a
12 settlement and he does it on the ground that he says,
13 "I have to live with these people." Now, unless you
14 are prepared to just get rid of the old force and
15 start again with a new force the same consideration
16 would apply to yourselves.

17 MR. McKICHAN: I think this is realistic

18 THE COMMISSIONER: You speak of
19 impoverishing the union. Well, what about impoverish-
20 ing an owner, a proprietor of a small store?

21 Mr. McKICHAN: Well, this is also a
22 possibility, but on the other hand it seems to us that
23 the action was likely more often to stem from the
24 employer against the union.

25 THE COMMISSIONER: That would entirely
26 depend upon the conduct of the union. If they don't
27 commit any wrong, any torts or anything of that sort,
28 then there is no question of liability.

29 MR. McKICHAN: This is correct, sir.

30 THE COMMISSIONER: And even in the

1 individual action where the union can be shown to
2 have either approved it or failed to disapprove it
3 the validity of your action is withdrawn because you
4 can't recover anything of any magnitude from an
5 individual worker.

6 MR. McKICHAN: I think it was our hope
7 that in cases where large unions with well-endowed
8 treasuries were involved that this would be a means
9 of assuring or helping to ensure the wise use of their
10 powers.

11 THE COMMISSIONER: I quite agree. As
12 a matter of fact, one large union in this province
13 has frankly conceded that there is no real justification
14 for their exemption from the responsibility for what
15 they have caused in the way of injury or damages.

16 MR. McKICHAN: If I may, sir, go back to
17 your first point about the question of the union suing
18 an employer. I don't think it would be likely that
19 this would be done lightly by the union because, after
20 all, it is not in the interests of the union to
21 destroy the management.

22 THE COMMISSIONER: Of course it isn't,
23 but sometimes we do get that by individual action,
24 irrational, that is quite true, but it does take place,
25 and the question is whether or not you should create
26 a duty in the union not to be associated with the
27 inactive participation, but that it takes action
28 afterwards to penalize the people who do break loose
29 that way.

30 MR. POLLOCK: I think that we are in

1 common mind that the reasonable people, the reasonable
2 employers and the reasonable employees would never
3 really worry about this type of legislation. You
4 still have those employers who are prepared to go to
5 any length to keep a union out, "Keep them away from
6 my door", and they are prepared to endure long and
7 lasting closure of their plant just to satisfy this
8 desire to keep the union away. That is the type of
9 employer who may resort to repeated actions against
10 the union and thereby weaken them financially.

11 MR. McKICHAN: It was to meet this
12 type of situation we did suggest some form of fiat
13 procedure.

14 MR. POLLOCK: Well, I have no further
15 questions and the Commissioner and I are very obliged
16 for the preparation of the brief and the submission
17 to us of your opinions.

18 THE COMMISSIONER: We do appreciate
19 the serious manner in which you have endeavoured to
20 give us a little bit of assistance and we want to thank
21 you for your courtesy in doing that.

22 MR. McKICHAN: Thank you very much,
23 sir, for your very generous allocation of time and
24 for your careful hearing of our submission.

25 MR. POLLOCK: Thank you, gentlemen.

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1 MR. POLLOCK: Mr. Arthur Williams.

2 Mr. Williams, we have had a rather
3 brief opportunity to examine your written submission
4 and your credentials of authority and many years of
5 experience and, as I understand it, you are appearing
6 as an individual.

7 MR. WILLIAMS: That is right.

8 MR. POLLOCK: And you have had
9 considerable experience with the matters that are
10 before this Commission. I can tell you that the
11 proceedings of this Commission are extremely informal.
12 You can present the brief in any manner you want.
13 You can read it, you can read parts of it, you can
14 discuss anything that is in it or anything that you
15 think relates to it. We will have some questions we
16 would like to discuss with you on things that are
17 raised when they are raised or, if you prefer, after
18 you finish the presentation. Hopefully we can discuss
19 in an informal manner some of these problems and
20 shed a bit of light on them.

21 The presentation, sir, is up to you.

22 MR. WILLIAMS: Do you want me to read
23 it, sir?

24 THE COMMISSIONER: Whichever you prefer,
25 Mr. Williams --- deal with it in any manner. We have
26 both read it, but you deal with it in any manner that
27 you prefer.

28 MR. WILLIAMS: Well, if you have read it
29 I see no point in my rereading it.

30 THE COMMISSIONER: Just take up the points

1 you think are important and we will discuss them.

2 MR. WILLIAMS: Well, about the Act
3 itself, sir, I have made some points in regard to the
4 Act.

5 THE COMMISSIONER: The existing Labour
6 Act?

7 MR. WILLIAMS: The Ontario Labour
8 Relations Act, yes. In addition to what is in the
9 submission there is an observation that I would like
10 to make. In my numerous, very numerous appearances
11 before the Labour Relations Board not being a lawyer
12 and not being trained in legal matters I have
13 repeatedly discovered that the Labour Relations Act
14 was merely a tool of the lawyers; in other words, the
15 Act itself was so worded that what people like myself
16 took to mean a certain thing was interpreted by a
17 lawyer to mean a totally different thing.

18 THE COMMISSIONER: Could you give me an
19 example of that?

20 MR. WILLIAMS: Yes. There was the
21 case that is referred to here in the submission
22 concerning a strike that took place in Parry Sound.
23 My argument before the Board on that particular
24 occasion was hinting on an interpretation of the word
25 "may".

26 THE COMMISSIONER: Do you remember what
27 section of the Act, or the present section?

28 MR. WILLIAMS: I don't think that I
29 can confidently refer to the particular section.
30 It is under the heading of "Conciliation". It is the

1 part where the Act suggested that if one or other of
2 the parties in the dispute on a joint application to
3 the Board for conciliation, that is the section that
4 was referred to and in that section I think that the
5 wording goes something like this: ---

6 MR. POLLOCK: Is that Section 14 you
7 are looking at? Of course, that is a new section
8 where the Minister may on the question of the parties
9 appointed.

10 MR. WILLIAMS: That is near enough the
11 section to explain the point that I am making. The
12 submission that I made on this particular question to
13 the Board was that neither party had made an
14 application and the whole argument before the Board
15 resolved itself into the use of the word "may". I
16 interpreted the word "may" to mean that you could if
17 you wanted to, but you were not compelled to, but the
18 Board surprisingly took the attitude that "may" meant
19 "shall". Now, that is one instance, sir, that I had
20 before the Board.

21 There is another instance that I can
22 give you where the chairman of the Board, Mr.
23 Finkleman at that time, ruled that there was a certain
24 procedure to be followed according to the line set
25 out in the Act. Then I asked Mr. Finkleman to allow
26 me the privilege of presenting my case in my own way,
27 as provided for in a late section of the Act. My
28 words, I think, were in effect that "If you are
29 insisting that I follow a certain procedure, then I
30 wish to invoke that particular section of the Act

1 which gives me the opportunity of presenting my case
2 in my own way".

3 MR. POLLOCK: Is that Section 86? That
4 says:

5 "No proceedings under this Act
6 are invalid by reason of any
7 defect of form or any technical
8 irregularity and no such
9 proceeding shall be quashed
10 or set aside if no substantial
11 wrong or miscarriage of justice
12 has occurred."

13 MR. WILLIAMS: That is in essence it.
14 The Board, I well recall, recessed on that particular
15 occasion to consider the point that I have mentioned
16 of invoking that section of the Act. When they came
17 back in they insisted not in allowing me to follow
18 my invocation but rather to follow the policy that
19 they had set down, and I quoted two examples, there
20 are many more, I suppose, in my numerous
21 appearances before the Board, but those are two that
22 immediately come to mind.

23 I always felt when I went before the
24 Board that I was behind the eight-ball not being
25 versed in the law. Now, the whole point that I am
26 trying to make here is that this Act is written almost
27 entirely for the use of lawyers unless a labour
28 representative goes to the pains of taking a university
29 education so that he might become versed in the law.
30 Now, I don't think that that is quite necessary and this

1 1966 Act because of the type of language that is in it
2 is not something that not only lawyers can use, but
3 also those who are not versed in the law.

4 MR. POLLOCK: Well, of course, Mr.
5 Williams, with relation to any type of legislation
6 it has to speak with considerable particularity.
7 The legislature speaks once on a subject and it is
8 supposed to have enough clarity that it cannot be
9 misinterpreted by those who are charged with the
10 responsibility of applying it. That in some cases
11 necessitates some understanding of statutory
12 interpretation. If your complaint is that some of
13 the procedures for handling what is set out in the
14 Labour Relations Act have become rather formalistic
15 and cumbersome, then that is a different question,
16 but I would suggest to you that it would be almost
17 impossible to administer an Act unless it was precise.

18 MR. WILLIAMS: Precise for whom --- for
19 the lawyer?

20 MR. POLLOCK: Well, how would you make
21 it more precise for the lay person, the intelligent
22 lay person?

23 MR. WILLIAMS: By writing it in layman's
24 language.

25 THE COMMISSIONER: Do you think laymen
26 always agree upon the interpretations of their own
27 language?

28 MR. WILLIAMS: Oh, no.

29 THE COMMISSIONER: Then that simply
30 illustrates the difficulty of expression that is

1 experienced not only by the lawyers but by laymen and
2 everybody. I think it is a mistake to assume that
3 you can by the use of language make everything so clear
4 that everybody will agree with it.

5 MR. WILLIAMS: Well, even the lawyers
6 don't agree with it.

7 THE COMMISSIONER: Certainly, that is
8 what I say. The shades of meaning of our words, the
9 context in which they appear, the fact that they are
10 legislation which means that they are drafted by people
11 who are concerned with law, because this becomes a
12 law, all of these things make it extremely difficult
13 to be dogmatic about meaning, but on the other hand,
14 there is no reason why you should not, Mr. Williams,
15 after the experience before the Board have become
16 just as facile and competent in the interpretation of
17 the language of the Act as any lawyer. That is
18 happening today in Australia. They have created in
19 effect a labour bar and they go before the
20 commissioners and they argue this, that and the other
21 thing, arising out of their statute just as a lawyer
22 does.

23 MR. WILLIAMS: You quoted Australia.
24 When you were there did you notice any difference
25 in I don't mean the atmosphere when I use this word
26 "climate" --- did you find any difference in the
27 attitude of employers to what there is here on this
28 continent?

29 THE COMMISSIONER: Well, I express only
30 my own opinion. I think that there is in general a

1 broader and a deeper acceptance of the fact of
2 unionism than there is in North America.

3 MR. WILLIAMS: Here in Ontario we have
4 a Minister of Labour, for example. This is partly
5 replying to what my friend there said. This Minister
6 of Labour who sponsors this particular Bill in the
7 House is no better versed in law than I am.

8 MR. POLLOCK: Except that he is a
9 lawyer.

10 MR. WILLIAMS: No, he was not.

11 MR. POLLOCK: You are not talking about
12 the current Minister of Labour.

13 MR. WILLIAMS: Charley Daley was no
14 lawyer.

15 MR. POLLOCK: There have been two since
16 him.

17 MR. WILLIAMS: Yes, I know. But the
18 fact that even a lawyer may be the Minister of Labour
19 doesn't mean that that lawyer acting as a Minister of
20 Labour is well versed in the subject matter that the
21 law is designed to deal with, namely, labour relations.
22 I think I have made that point at one stage in the
23 submission, that judges and lawyers are extremely well
24 versed in law, but not well versed in the matter of
25 labour relations and vice-versa, so that fact that a
26 Minister of Labour now is a lawyer and his predecessor
27 was a lawyer doesn't make them any more competent
28 than the previous Minister of Labour who was not
29 versed in law.

30 MR. POLLOCK: I was not trying to

1 establish that: I was just trying to identify the
2 people you were talking about. I didn't realize
3 you were referring to Mr. Daley. I thought you were
4 referring to Mr. Bayles.

5 MR. WILLIAMS: I would not attempt for
6 a single moment to suggest that all laws should be
7 written in layman's language, but this particular
8 law can come a lot closer to a clear understanding
9 of what laymen really mean so that when you did go
10 before the Labour Relations Board you would come ---
11 I am not suggesting, sir, that there would be no
12 dispute or argument about one's interpretation, but
13 it would be a lot less than it is now.

14 To me in my experience before the
15 Board if this illustration doesn't sound too far-
16 fetched, it was just like I had the plumber in the
17 house yesterday. Two days before I was trying to put
18 the end of a rubber tube on a piece underneath the
19 sink. When the plumber came yesterday because he
20 knew what he was doing he took the part out that I
21 was trying to push the tube on and then I saw
22 immediately why I couldn't get that end of the tube
23 over. There was a little recess inside that the
24 tube had to go into. I didn't know anything about
25 it. Now, it is very much the same. While I am
26 talking to you there comes to me another situation
27 which I think deals with this particular point.
28 It was an arbitration case up in Sarnia and Judge
29 Fuller was the chairman. It concerned the dismissal
30 of some employees. We had the evidence from the

1 dismissed employees and there was argument backwards
2 and forwards with the employees and ourselves and the
3 odd interjection by Judge Fuller. The case was
4 almost over and Judge Fuller said to me, "Do you
5 want any re-examination, Mr. Williams?". And there
6 were some questions that I wanted further clarity on,
7 but not being well versed in these matters of re-
8 examination I started dealing with some of the points
9 it was my intention to bring out and Judge Fuller
10 would not accept it. He said, "It is only re-
11 examination, Mr. Williams".

12 THE COMMISSIONER: Why had not that
13 been brought out in the original direct examination
14 as they call it? Was it your own witness?

15 MR. WILLIAMS: It was as a result of
16 some of the questioning. It may have been by me in
17 the first instance and the examination by the other
18 side, but I felt that there ought to be some
19 additional clarification of this particular matter,
20 and when Judge Fuller said to me about the re-
21 examination I came back immediately not with argument,
22 but with this tool.

23 Now, I am certain, sir, that it is
24 possible to put into ^{it} language that would be less
25 likely to cause misunderstandings. That doesn't mean
26 when I say that that it would entirely eliminate
27 any misunderstanding. We have not yet come to that
28 stage of perfection which makes it possible.

29 THE COMMISSIONER: Well, you have to see
30 what they have been able to do in other countries ---

1 In England, in the United States, you have the same
2 kind of language in the enactment of labour laws.
3 In England they have reached a maturity in legislative
4 expression that is very seldom surpassed and yet in
5 spite of all that, in spite of their first-class
6 parliamentary counsel, parliamentary draftsmen, they
7 have great differences of opinion of what a paragraph
8 will mean. Why? Because it is imposed upon a setting
9 of other laws which must be appreciated before the
10 meaning can be clarified, and even then there may be
11 dispute.

12 MR. WILLIAMS: My submission points out
13 in the beginning my initial education or induction
14 into labour relations was in England. I have been
15 away from there since 1929, so I am not too familiar
16 with what labour law may be there at the present
17 moment, but it is distinctly my recollection that
18 in negotiating there we never negotiated a contract
19 in the form that it is negotiated here. All we
20 negotiated there was what we called the price list,
21 the wage structure. That is all we negotiated.
22 This business about grievance procedure, seniority
23 and all the rest of the stuff that was never in a
24 contract that I was on.

25 THE COMMISSIONER: That was left with
26 the proprietor generally.

27 MR. WILLIAMS: No, sir, as you say,
28 they have reached years ago a stage of maturity that
29 we have not begun to understand and it was taken
30 for granted by the employer and by the union that if

1 there was a grievance --- and God knows there were
2 plenty of them --- you would just tell the management
3 what you wanted that there was a deputation waiting
4 to meet them and if they would set a date, then you
5 would be present at that time and state the grievance
6 and try and get it settled. There was no formula
7 that you went through as there is now. It was so
8 utterly informal.

9 THE COMMISSIONER: That is true.

10 MR. WILLIAMSON: Now, I think today,
11 sir, that there is very little industrial trouble in
12 Britain arising from interpretations of seniority.
13 I would almost go so far as to say that there is no
14 industrial upheaval at any time in Britain over
15 contract interpretations.

16 THE COMMISSIONER: We were dealing with
17 the difficulty of statutory interpretation, not
18 contract interpretation.

19 MR. WILLIAMS: Well, there again you
20 seem to highlight the difficulty that I have as a
21 former union representative of separating the two.

22 THE COMMISSIONER: I think there is a
23 separation, but you can't say that there is never
24 dispute over a contract that is drawn up by lay
25 people, there is never a dispute about the
26 interpretation of it.

27 MR. WILLIAMS: Oh, no, I am not
28 suggesting that there is. I wish that we were that
29 far advanced mentally that we would be able to say
30 that there was no possibility of misunderstanding,

1 but we are dealing here in Ontario, indeed on this
2 continent, with an entirely different mentality.
3 You see, as I suggest in this submission, one of the
4 great difficulties that confronts us is the hostility
5 and it is as rampant today as ever it was. Here in
6 Ontario I know some firms here in Ontario that it is
7 a pleasure to negotiate with, but the vast majority
8 of them it is hostility from the word "go".

9 MR. POLLOCK: How do you change that
10 attitude?

11 MR. WILLIAMS: That is a problem, isn't
12 it? I have said that here in the brief, how do you
13 change it? I think one of the approaches is to
14 accept a late suggestion that I have made in the
15 submission here of where there is a dispute which has
16 all the elements of strike in it that steps should
17 be taken --- and this reference that I am going to
18 make will remind you of what is in the brief --- of
19 doing what the late C. D. Howe did: as long as
20 employers are able to feel that the law governing
21 labour relations can be used to their advantage and
22 that there will be no forthright steps taken, so long
23 they will persist in their hostility. If the steps
24 that were taken by C. D. Howe were taken, say, in the
25 forthcoming autoworkers situation, negotiations, I
26 am sure that the employers, General Motors and the rest
27 of them, would pull up their socks and realize that
28 they couldn't count on the law sort of not being too
29 definite that they could play around with it.

30 I think it is worth trying.

1 MR. POLLOCK: That is the appointment
2 of ---

3 MR. WILLIAMS: Of what is referred to
4 as a controller.

5 MR. POLLOCK: That procedure is
6 available in some areas where the question of profits
7 is involved.

8 MR. WILLIAMS: It is provided for in the
9 Act.

10 MR. POLLOCK: In some places in the
11 United States, for example, the governor can authorize
12 this plant to be taken over and the employees work
13 at a reduced salary and the company operates without
14 reduced profit in an attempt to continue the operation
15 for the public, so that the public will derive the
16 benefit from the continued operation of the plant,
17 and yet create sort of in-laboratory circumstances,
18 the effect of the strike on both the parties without
19 depriving the public of the product.

20 I think it has only been resorted to
21 in one circumstance in the United States and in this
22 particular case that you mentioned there was no
23 particular necessity for it. They came around and
24 saw the light of day.

25 MR. WILLIAMS: I think too that if there
26 were some steps taken to curtail the frequency with
27 which employers employed strikebreakers the controller,
28 the use of strikebreakers, the use of the police, the
29 use of injunctions ---- all those I conceive them
30 to be aid and comfort for the employers to maintain

1 their hostility. They have the feeling, I am pretty
2 certain, that if a strike breaks out all they have to
3 do is to employ some strikebreakers, notify the
4 police, and if the strike does really occur, rush
5 to the court for an injunction. Now, if those avenues
6 were not so readily available I believe it would have
7 a sweetening effect, "sweetening" sounds rather
8 ridiculous in the context in which we are discussing
9 this matter now --- it would have a rather sweetening
10 effect on the employers, I believe. The way we are
11 going now all of these procedure that are available
12 to employers merely encourage their hostility.

13 MR. POLLOCK: How would you sweeten
14 the union or is it your assumption that the union is
15 always right in any dispute?

16 MR. WILLIAMS: Oh, no, that is a wrong
17 interpretation, I suggest to you. There are many
18 things, many things that I am very much against in
19 unions.

20 MR. POLLOCK: For example?

21 MR. WILLIAMS: Jurisdictional squabbles.
22 It makes me very angry when I find that two unions
23 who are in a jurisdictional dispute can't themselves
24 settle that jurisdictional problem. It makes me very
25 angry. Are they bereft of any intelligence at all?
26 That is what I ask myself, and then they rush over to
27 the States for some advice as to how to settle it.
28 Since when do they down in the States have all the
29 brains?

30 Now, I was in an international union, so

1 I know something about what I am talking about now.
2 Oh, there are many things concerning unions that I
3 am very much opposed to, very much.

4 MR. POLLOCK: Well, on this question
5 of justification for strikebreakers, let us first
6 examine what we are talking about as strikebreakers.
7 We are not talking about the thugs that are employed
8 to beat up the people, I don't think they are
9 prevalent today. They used to be called "strikebreakers"
10 --- the coal mine guards and the security police of
11 Ford Motor Company, they aren't with us today, are
12 they?

13 MR. WILLIAMS: Well, I recall a
14 particular situation in the north among some lumber
15 workers where deaths were involved. It was only about
16 two or three years or so ago.

17 MR. POLLOCK: If you are talking about
18 Reeser Siding, we are not talking about violence now,
19 we are talking about people who are employed for the
20 very purpose of creating violence, a paid army of
21 thugs. That was not the case in Kapuskasing. That
22 was a dispute between some union men and farmers who
23 wanted to carry on the operation of logging and
24 some people got killed. So that strikebreakers take
25 either one or two forms today, in the very narrow,
26 highly-industrialized, highly-skilled craft
27 organizations, the printing trades they have some people
28 who are what they would call professional strike-
29 breakers, people who move from strike to strike to
30 assist the employers to break the strike, not to come to

1 fill a job permanently, but to assist him as a
2 weapon, as an article of obstruction to the union.
3 That is a very, very small portion of the strike-
4 breakers.

5 MR. WILLIAMS: Well, it occurred
6 recently, didn't it, down in the newspaper strike here
7 in Toronto?

8 MR. POLLOCK: That is right, it is alleged
9 to have happened here.

10 MR. WILLIAMS: And the company even put
11 them up in that Lord Simcoe Hotel.

12 MR. POLLOCK: In any event, that
13 doesn't happen in the general run of the mill industry.
14 You don't have professional groups of assemblers
15 travelling around in the same way. If you are going
16 to attract people to come and work in your plant you
17 do it from the community or from the province or
18 from a general locality around the plant where people
19 want to come and take the jobs, want to work.

20 Let us talk about that type of person,
21 the employer who wants to employ people at a particular
22 salary that he is prepared to offer, not for the
23 lone and simple purpose to defeat the strike, but
24 to replace his employees. It will have that effect
25 generally, but he is not paying a high premium to
26 these people to come and work there as a tactical
27 move. So far as he is concerned the union's demand
28 is unreasonable bearing in mind the rate of wages
29 that he would have to pay to replace that type of
30 skill in the community.

1 Now, he says, "That is the only chance
2 that I have to determine the reasonableness of the
3 union's request for a wage increase. If I am
4 presently paying them \$1.50 an hour and they want
5 \$2.50 an hour and ⁱⁿ the general labour market in my
6 community I can get people to work for \$2.00 an hour,
7 why ought I not to be able to obtain these people,
8 alternative employees, at \$2.00 an hour?", which is,
9 as he determines it on the basis of the existing
10 labour market, the reasonable and fair remuneration.
11 Why ought he to be restricted in those circumstances?

12 MR. WILLIAMS: If the employment of
13 these people by the employer was solely for such a
14 purpose I could well believe that there would be some
15 substance to what you have just said, but that is not
16 the case.

17 MR. POLLOCK: It is not in all cases the
18 case. In some cases it is.

19 MR. WILLIAMS: Hardly any case. The
20 number of times that an employer deals with that
21 particular problem in the altruistic way in which you
22 have outlined it ----

23 MR. POLLOCK: It is not altruistic at
24 all, it is very selfish, he wants to carry on his
25 business at the cheapest price at which he can get
26 people to work and the union wants to carry on their
27 operation at the highest price they can command.

28 MR. WILLIAMS: I will agree there is some
29 degree of selfishness about it, but I am willing to
30 condone that degree of selfishness. If I were sitting

1 in the position of the employer I think I would
2 reason somewhat along these lines: "If I accede to
3 your request as true as God made little apples I
4 would be out of business. Now, I don't want to see
5 it all go down the drain." I think I would reason the
6 matter out in that particular way.

7 I had an experience along those
8 particular lines with an employer. We had a contract
9 with him for quite a long while. On one occasion
10 he told me and the bargaining committee that he couldn't
11 possibly pay any increase, he was in such a competitive
12 line of business that he couldn't possibly pay the
13 increase that we were asking for and he said this:
14 "I don't want you to take my word for it, Mr.
15 Williams. Here are the books. Look over them yourself."
16 And I did. That employer even went to the extent
17 of showing me the minute book of meetings of the
18 company and I realized, I didn't ask the employer
19 to show me the books. I believed what the man was
20 telling me, but he just so wanted to emphasize the
21 truth of what he was saying that he said, "Look at
22 the books".

23 The whole situation was completely
24 reversed. We signed a contract and went to this
25 length of not asking for a cent increase. Now, this
26 coming from a union man sounds like a fairy story, I
27 suppose.

28 MR. POLLOCK: It sounds like a very
29 reasonable and responsible attitude.

30 MR. WILLIAMS: I can give you the name

Toronto, Ontario

1 of the employer if you want it. You can check on the
2 truth of what I am saying.

3 MR. POLLOCK: That occurs about as often,
4 that type of situation, that reasonable attitude
5 occurs about as often as you have an employer coming
6 down and saying to his employees, "Although you only
7 asked for \$1.50 an hour, I think you are worth \$1.75
8 an hour". That occurs once in a blue moon too.

9 MR. WILLIAMS: Well, here is another
10 example. We had a dispute with a very large company
11 here in Canada --- well, I will mention the name,
12 Canadian Industries Limited. All of the plants of the
13 Canadian Industries Limited, or practically all of
14 them were in our union, district 50 of the United
15 Mineworkers of America, and at the time of which I
16 am speaking we had 11 of the plants in conciliation
17 at one and the same time. Judge Anderson was the
18 chairman of the board of conciliation. Cliff Adams
19 of the Industrial Institute was representing the
20 company. Andrew Brewin was our representative on the
21 board. We were asking for 15¢ an hour increase on a
22 two-year contract.

23 MR. POLLOCK: What year was this?

24 MR. WILLIAMS: Well, I have been
25 retired since 1959, so it was before that. I can't
26 remember quite the year.

27 MR. POLLOCK: It is in the middle
28 1950's, I imagine.

29 MR. WILLIAMS: Yes. The company resisted
30 the 15¢ an hour. We were separated by the board of

1 conciliation and I made the proposal to the board
2 in one of these separations that I would be prepared
3 to battle with the membership for a settlement on the
4 basis of 11¢ an hour. I don't know why I chose 11¢,
5 because I am an oddball, I suppose.

6 MR. POLLOCK: It is a good figure, it is
7 better than half and closer to two-thirds.

8 MR. WILLIAMS: I don't think that kind
9 of consideration entered my mind. But the company
10 would not accept the 11¢. I got permission from the
11 membership to go to Montreal to see the president of
12 the company. I had a very warm welcome from him,
13 he treated me extremely courteously, I told him what
14 the facts were and I asked him if he couldn't
15 intercede. "I am afraid not, Mr. Williamson", he
16 said, "It is in the hands of management", so my trip
17 to Montreal was useless.

18 MR. POLLOCK: Just as their trip to the
19 union membership would have been equally useless.
20 They delegated you to bargain and the company has
21 delegated their negotiating committee to negotiate.

22 MR. WILLIAMS: I am sorry, I don't
23 hear too sharply.

24 MR. POLLOCK: Your trip to see the
25 president was as useless as the company president
26 coming to see your union would have been just as
27 useless. They had given authority to their two
28 bargaining committees.

29 MR. WILLIAMS: How do you know, it is
30 not done?

1 MR. POLLOCK: It is done in some cases
2 and the most recent experience was in the recent
3 strike of the machinists for Air Canada where the
4 company felt very strongly that their position would
5 be accepted by the membership.

6 MR. WILLIAMS: I am talking of this
7 instance of the Canadian Industries now. Management
8 never asked for that. Air Canada might have had a
9 different experience, but it was never attempted by
10 the management in Canadian Industries Limited.

11 You know, the sequel to that particular
12 situation was that the company finally settled for
13 14¢ an hour. Apparently our demand in the first
14 instance was a cent too high. When I gave them the
15 opportunity of four cents less, no, I don't know how
16 to account for that kind of mentality, I am sure,
17 but there is a further instance. Unless there is a
18 growing-up on the part of both unions and employers
19 in this matter of labour relations all the reports
20 by Commissioners and special committees is of no
21 avail. All that can be done is to impose some
22 compulsory restraint as distinct from an order-in-
23 council ordering men back to work. That kind of
24 unilateral action only arouses the bitterness and
25 opposition because it is not the employer that is
26 ordered back to work: it is the employees who are
27 ordered back to work. Now, the other way that I
28 have suggested in the latter stage is where the
29 employer as well as the employee is on the spot. "This
30 is what is going to happen", so neither side can say

1 that one has an advantage over the other. It has
2 got to be done in that particular cooperative kind of
3 way. If it is not done, one side or the other while
4 you may break down the hostility on the part of the
5 employers you may raise the hostility on the part of
6 the employees.

7 MR. POLLOCK: If what you are saying
8 is that there ought not to be a unilateral restriction
9 on the right to strike in some circumstances without
10 providing for a method of settlement of the dispute,
11 I will agree with you. In most cases --- well, let us
12 take the most current case, the railway strike where
13 the Brotherhood have gone on strike and in the
14 national interest the government has declared that
15 they ought to go back to work. Now, if they had
16 stopped there, then I would say that your position
17 is correct, but they have done something. They have
18 said, "We are appointing in this particular case a
19 conciliator, a very able one, and we are providing
20 that you try and settle this by conciliation or you
21 will go to arbitration". Now, the arbitrator in
22 these circumstances has power to look at the union
23 proposal and say, "Yes, it is absolutely right, the
24 employer will pay it", or he has the opportunity to
25 look at and consider the employer's position and
26 make the same decision with respect to that, or he
27 can take a position anywhere between those two
28 extremes.

29 The employer has to pay what the
30 aribtrator awards, and the union has to accept it or

1 quit. Now, that is not as happy a relationship as
2 when you and I can sit down and decide what you are
3 going to pay me and we both come away happy. You are
4 happy because I am happy, and I am happy because you
5 are happy, and the contract is put into force, but
6 it is much better than any unilateral act on the part
7 of either side that can destroy the economy of the
8 country. Now, there is no question about that, is
9 there? A voluntary agreement is much better than
10 an imposed one.

11 MR. WILLIAMS: Oh, yes.

12 MR. POLLOCK: But an imposed one is
13 better than having chaos?

14 MR. WILLIAMS: Do you adjourn for lunch,
15 sir?

16 MR. POLLOCK: We break at one o'clock.

17 MR. WILLIAMS: Whenever I hear this
18 reference to the national well-being or injury to the
19 community in strikes I so often feel that it is just
20 something that is being held out to create some sort
21 of impression that it is an important matter beyond
22 the concept of the strikers. I don't think that it
23 has any validity at all. First, who are these
24 strikers? They are part of the community and more
25 just as much a part of the community as any other
26 segment of society, and similarly, the national well-
27 being, they are ^{as} seriously concerned about the national
28 well-being as anybody else possibly could be. I
29 resent what I interpret as an implication that the
30 strikers in such situations as the railway strike or

1 hospital or some other form of transportation are
2 unmindful of their responsibilities.

3 MR. POLLOCK: Let me stop you at that
4 point. That is not the impression I want to create
5 in your mind.

6 MR. WILLIAMS: If you will excuse me
7 interrupting you, I am not suggesting that you are
8 implying that. What I mean is the general use of
9 that idea being spread through the news media, carried
10 into Parliament where people stand up and shoot off
11 about it and so on. You see, there are thousands
12 upon thousands of trade unionists like me desperately
13 keen on seeing the nation progress --- desperately
14 keen. I hope I am not overstressing this, sir.

15 "Don't you dare hurt my Canada," that is the impression
16 of practically all the trade unions and trade
17 unionists: "This is my country, I don't want to see
18 any harm or hurt come to it". That is the mentality
19 of the trade unionists and because I know that that
20 is the mentality when I hear bandied around these
21 things about harm to the nation and harm to the
22 community I feel very resentful as though I am some
23 irresponsible ne'er-do-well. I am not --- and when
24 I say I am not I mean the trade unionists are not ---
25 out for my pound of flesh at all costs. If you were
26 in a union meeting and know the lengths that a
27 trade union representative will go to to caution
28 --- take a wage demand, for example. When we are
29 discussing contract proposals sometimes there come
30 up the wildest ideas imaginable. I recall on one

1 occasion a demand that we --- or a proposal that we
2 demand a 30 percent increase in wages --- 30 percent.
3 Now, what would you say to the meeting? I know what
4 I said, "Do you think we are crazy to go in there
5 with a demand for 30 percent? What do you think the
6 employer is going to say? You mean 3 percent, not
7 30 percent, that is what the employer is going to say.
8 If you insisted on arguing it is 30 percent before
9 the employer, he will say to you 'Well, all right, if
10 that is the attitude, no further negotiations until
11 you go back to that meeting and come out with something
12 sensible'". Knowing that situation and the trade
13 unionists you have before you ---

14 THE COMMISSIONER: There has been just
15 such a percentage of increase enacted in Canada within
16 the last year.

17 MR. WILLIAMS: That is right, but not
18 in the normal ranks of trade unions.

19 MR. POLLOCK: Last year was the year,
20 if you can call it that, not the year of the dragon,
21 but the year of the 30 percent.

22 MR. WILLIAMS: That is right.

23 MR. POLLOCK: It went across Canada and every union
24 said, "We want 30 percent". It started ---

25 MR. WILLIAMS: The postal workers.

26 MR. POLLOCK: No, before that, in the
27 shipping on the St. Lawrence Seaway around Montreal or
28 Quebec. That was the first 30 percent increase in the
29 stevedoring, the longshoremen.

30 MR. WILLIAMS: Well, I am not going to

1 question that, although I followed this matter rather
2 keenly. Still, I don't know why I am up here today.
3 Why don't I sit in my retirement back there? I have
4 got a lovely place and now with the warm weather
5 coming it is delightful. Really it is.

6 MR. POLLOCK: Maybe we ought to adjourn
7 to there.

8 MR. WILLIAMS: Well, I don't want you
9 to do that because I am afraid if you came down there
10 and sat around in our place out there you would not
11 want to leave.

12 I had the impression, which could very
13 well be wrong, in periods as far as the time is
14 concerned, but I had the impression that an association,
15 not a trade union, mind you, but an association who
16 did not have at that time the right to form or become
17 part of the trade union movement, the postal employees,
18 that there was an award made by the government, the
19 Civil Service Commission doing the negotiation for
20 the government and then when the difficulty of having
21 the postal workers continue working became so
22 pronounced, Judge Anderson was appointed as a mediator,
23 and he came up with an additional amount. I know
24 that from sources like that --- and this would
25 incorporate the St. Lawrence Seaway workers as well,
26 if you like --- that gave the impetus to excessive
27 wage demands, but I also want to remind you, Mr.
28 Commissioner, that never in the history of industrial
29 undertakings in this country has profit been as high
30 as it is and was at the time that we are speaking of.

1 There used to be bandied around terms such as
2 "excess profits". You don't hear it anymore, even
3 though profits are higher than ever in the history
4 of mankind.

5 I am not endorsing the idea of a 30
6 percent increase, don't get me wrong. I think that
7 an increase has to be, a wage increase has to be
8 based on common sense. It doesn't matter what increase
9 you ask for with an employer --- and this is a line
10 of collective bargaining that is most regrettable, in
11 my judgment, but you go into an employer and ask him
12 for a wage increase of a certain amount. As true as
13 God made little apples he will cut it in half with a
14 counter-proposal and bargaining is this peculiar
15 process that he comes up a little bit. "Now, I have
16 moved. When are you going to move?". When a child
17 goes to school the purpose is that he will be taught
18 to read and in the course of time he will learn to
19 read. This so-called bargaining is teaching the sides
20 how to effect a settlement. That is the cockeyed
21 idea. The union asks for 15¢, the employer says, and ---
22 this is fact ---- "15¢? Where do you think the money
23 is coming from?". "Well, how much are you willing to
24 give? How much are you willing to propose?" --- "five
25 cents". This goes back some years. Do you know that
26 we were within half a cent of a settlement in Cobourg
27 on one occasion and the employer came back to us and
28 said, "Supposing we split it?". That is the God's
29 truth. Outside they were building an addition to
30 their property and when he wanted to split a cent I

1 blew my top. It is not very often that I did that
2 kind of thing in negotiations, but I blew my top on
3 that occasion and said, "You can spend all that money
4 on bricks and mortar out there and you want to split
5 half a cent". The negotiations ended. The next thing
6 I knew was that this employer refused to meet me
7 any longer: he demanded an apology. I was not the
8 head of the union at that time, but he wrote to the
9 head of the union and said he demanded an apology
10 from me, and he would never negotiate with me again.

11 Forget about that particular instance,
12 because I know that that is very extreme, but in these
13 other situations, Canadian Industries Limited, there
14 was one manager, only one out of all of them that
15 would give us a definite answer about wage increases.
16 It doesn't matter how much we asked for, he would
17 say to us, "This is what I am prepared to settle for",
18 and, hell or high water, that was it, and we came to
19 know that Bill Shaw, the manager of the Fabrikoid
20 plant in New Toronto was a man of his word, and we
21 settled on that particular basis.

22 You don't know when you go into these
23 negotiations with most of the managers whether what
24 they are telling you is right or wrong. Their word
25 means nothing in the vast majority of instances that
26 I have come up against, but once in a while you do
27 meet a man of his word and it is a pleasure to deal
28 with him. This damned silly business about bargaining,
29 you are already bargaining with Bill Shaw. You ask
30 for something which he thinks is outrageous.

1 | Incidentally, he is the one who told me on one
2 | occasion about this 30 percent. "You go back, Arthur,"
3 | he said, "and see if the membership haven't made a
4 | mistake". And back I went, and said to the
5 | membership: "Are you satisfied now that you have made
6 | fools of us? I suggest that you get a different
7 | bargaining committee because this bargaining committee
8 | is not going to go in again with such an outrageous
9 | request. We proved to you that you made fools of
10 | us, so don't ever do it again."

11 | I think I still get as hot under the
12 | collar about this bargaining thing as ever I did.
13 | I don't know how you put up with us, I am sure.

14 | THE COMMISSIONER: Patience only.

15 | MR. WILLIAMS: You want a lot of it,
16 | Mr. Commissioner. You have to subject yourself to
17 | all kinds of talk. What is told about trade unionists
18 | in the news media is nothing to what a trade unionist
19 | has to put up with in a membership union. He is
20 | sometimes called, the dogs would not lick him, and I am
21 | not here holding out any brief at all for trade
22 | union representatives. There are quite a number of
23 | trade union representatives who should not have a job
24 | picking up garbage really. All of the trade union
25 | representatives are not top-notch. Will you forgive
26 | me if I give a rather humorous reference, sir?
27 | When I became the head of our union in Canada I was
28 | not at all satisfied with the type of people that were
29 | on our staff and I remember my son taking me out to
30 | lunch one day and I said to him because he was holding

1 an executive position with A. V. Roe at that
2 particular time and at that lunch I said to him,
3 "Well, I don't know what to do about some of the
4 deadwood that is on our staff". "Get rid of them,
5 dad," he said. Well, in due course I got rid of
6 them and I searched around for people who were not
7 deadwood. There is all kinds of deadwood around.
8 So on another later occasion having lunch with Ron
9 again I said to him, "Well, I got rid of the deadwood,
10 Ron. Now, tell me where I can pick up some live
11 wood". "Oh, dad", he said, "that is a problem",
12 and I found it to be quite a problem too, and the
13 trade union movement with its representatives has
14 a lot of deadwood on its staff, but invariably the
15 heads of the union, forgive me for mentioning some
16 of them ---- mentioning names is not good because
17 you may miss some very good people like Larry Sefton
18 and Stan Little --- oh, there are quite a number
19 of them. They are very, very good people, very good.
20 One appearance before a Commission which only gets
21 a fleeting glance at the character of the
22 representative may be somewhat rewarding, but not
23 fully rewarding until you know the people
24 intimately. They are as fine as the finest that you
25 could locate amongst employers or any other walk
26 of society. Larry Sefton in particular --- and I am
27 not boosting Larry in any way at all--- I know
28 the man, I know him intimately as well as many of
29 the others. We are not all as wild and woolly and
30 useless as some people that I know in the Teamsters,

1 for example, and I am not speaking of that poor
2 fellow who is in jail at the present time in the
3 States: I am speaking of some of them who are in
4 Toronto here. I know some of the rats that are on
5 the staff there.

6 Is this getting us anywhere at all,
7 sir?

8 THE COMMISSIONER: Yes, I think we
9 appreciate your observations. You have withdrawn
10 from the battle lines and you are in a good position to
11 observe and to reflect, but I must say I appreciate
12 your statement about the union leaders. I am glad
13 that you can say what you have said.

14 MR. WILLIAMS: That, I think, is one
15 of the failures of our society. Listen to the news
16 tonight and I will bet you what you like that of
17 ten items that are broadcast nine of them will be
18 about tragedy or difficulty or rottenness of some
19 kind or the other. Very little is said about the good,
20 very little. I counted on the front page of the
21 Toronto Daily Star one day this week of 23 items on
22 that front page 18 were about violence.

23 THE COMMISSIONER: There is no doubt
24 about that.

25 MR. WILLIAMS: And general rottenness.
26 So much good. Why don't we shout about it? There is
27 more sensationalism, I suppose, in the violence.
28 Look at the display about this Yorkville and God
29 knows there are all kinds of areas in Toronto here,
30 Metropolitan Toronto, which are shining gems if they

1 would only be given a little bit of polish. But no,
2 Yorkville, Yorkville all the time.

3 Have we spent long enough on that
4 phase of whatever phase it was we were dealing with?

5 MR. POLLOCK: Well, I asked you the
6 questionsthat were concerning me arising out of your
7 brief.

8 MR. WILLIAMS: Have you got another one?

9 MR. POLLOCK: No, you have set it out
10 fairly well and straightforward in some of the
11 matters that you touched on. I had a couple of
12 ones I was interested in in relation to strikebreakers
13 and that kind of thing and you have answered them.

14 MR. WILLIAMS: You know, that reference
15 to the Galt situation that is in there, looking
16 through some of my old files at home I came across
17 a file of the Galt strike. This may not be pertinent
18 today because this situation was in 1943, but in
19 looking over the file I saw that it contained a
20 copy of the conciliation board report of that time.

21 THE COMMISSIONER: 1943?

22 MR. WILLIAMS: 1943. A very
23 prominent lawyer in the City of Toronto, still very
24 prominent, in fact there are two lawyersstill very
25 prominent in the City of Toronto who are involved
26 in this submission, but the one that I am referring
27 to about the Galt situation was the only man in my
28 recollection that turned down an appointment to
29 the Supreme Court of Canada, which tells you who it
12 30 is, I suppose.

1 He was a judge who was no longer with us, but a man
2 for whom I had a very high respect. They made a
3 ruling in this conciliation board report denying
4 union recognition in that Galt situation because our
5 majority was so small. There was a majority, mark
6 you, but this lawyer and this judge joined together
7 to rule against us because the majority was not
8 large enough. That is a strange sort of decision,
9 isn't it? Can you conceive of such a decision being
10 rendered today? I can't.

11 In that Galt situation looking back
12 on it is a pity I couldn't see the humour or some
13 parts of the humorous situation as I do now. The
14 judge was anxious to conclude the conciliation
15 proceedings. There were nine plants involved in it,
16 and it was coming to his vacation time and he had
17 an appointment to go fishing and he left, he
18 completed the hearing, but didn't write the report
19 because of his fishing appointment, and as the
20 submission says, I was put in jail up there. Later
21 on I was appointed by the Rubberworkers to sit as
22 their representative on a board at which this very
23 same judge became the chairman. When I went to him
24 and asked him would he consent to sit as a chairman
25 he said, "You want me to be the chairman?". I said,
26 "Yes" --- "After what happened?". I didn't know what
27 to say to him. He was so self-conscious about me
28 being put in jail up there and the proceedings before
29 the demonstration in the morning, clearing my
30 pockets of all kinds of stuff, but taking in my wallet

1 \$2.00 so that I couldn't be charged with vagrancy,
2 some tobacco and my pipe and making arrangements
3 beforehand for bail, I wish I could have seen the
4 humour of it then, but I have always been too serious,
5 always, although I have a great sense of humour.

6 THE COMMISSIONER: Well, you have a
7 great many people with you suffering from this same
8 defect.

9 MR. WILLIAMS: Of being serious, is
10 that what you meant?

11 THE COMMISSIONER: Yes.

12 MR. WILLIAMS: Yes.

13 It has been an interesting life,
14 though, very interesting.

15 THE COMMISSIONER: Very interesting.

16 MR. WILLIAMS: I thought you might
17 have asked me some questions about the discrimination
18 of the Department of Labour, whether it is down in
19 Ottawa or in Ontario here against union people being
20 used as chairmen of boards.

21 MR. POLLOCK: Do you know a fellow
22 named Podger?

23 MR. WILLIAMS: No.

24 MR. POLLOCK: I think he is a union
25 man. There just came across my desk a copy of a
26 conciliation report in which he was the chairman.

27 MR. WILLIAMS: Well, the only one I have
28 in mind there is a fellow Geddes who is used in a
29 continuing capacity. All the rest go although now
30 I notice Louis Fine has been chosen to head up a

1 board, but there are a host of them. I don't know why
2 there is this idea prevailing that if you happen to
3 be connected with a union you can't be broadminded
4 or openminded, that you are so ---

5 THE COMMISSIONER: I don't think that
6 is a general opinion, is it?

7 MR. WILLIAMS: Well, why aren't some of
8 these people ---- oh, it poses quite a problem. I
9 know two of them --- and you know them too --- and
10 this is better known to you, sir, than it is to me,
11 but I notice a recent announcement about some
12 examination of the constitution to be made by
13 very worthwhile men, but two of the most outstanding
14 in Canada were completely overlooked --- Professor
15 Frank Scott, where is there a greater constitutional
16 expert in this country than Frank Scott? Or Dr.
17 Eugene Forsey? There is a chairman of a board, for
18 example. I have known Dr. Eugene Forsey to tell me
19 off because he thought that I was too biased. After
20 what I have said here before you today the Commissioner,
21 of course, to a large extent he was a member of what
22 they called the B. and B. Commission. Frank Scott
23 was too, or is, the Bilingualism and Biculturalism
24 Commission. Oh, we have some good men.

25 MR. POLLOCK: These appointees, Mr.
26 Goldenberg is a first-class man.

27 MR. WILLIAMS: Oh, yes, this is no
28 reflection on him at all. You see, one of the big
29 troubles is which party you belong to. That is why
30 a man like Larry Sefton, for example, is never

1 invited to sit as chairman of a board. He is in the
2 wrong party. This might sound strange to you, sir,
3 and might sound rather woolly.

4 THE COMMISSIONER: Well, certainly
5 the County Court judges are not selected because of
6 any partyism, that is, to act as chairmen of boards.

7 MR. WILLIAMS: Well, I have gone before
8 many of these judges. There are about six out of all
9 that I have been before that I have any confidence
10 at all in, sir.

11 THE COMMISSIONER: Yes, there is no
12 doubt that there is a group in whom all parties have
13 confidence. It is an easy thing to say, you know,
14 "Get us some first-class men". The country has to
15 produce them first.

16 MR. WILLIAMS: Yes, I know. But there
17 is Prof. Bora Laskin, for instance.

18 THE COMMISSIONER: He is on the Court
19 of Appeal now.

20 MR. WILLIAMS: Yes. I would take him
21 at any time as chairman of a board or as an
22 arbitrator. Judge Anderson, Judge MacDonnell, and I
23 have had quite some run-ins with Judge MacDonnell.
24 The fact that I have had run-ins with people like
25 that doesn't mean that I am antagonistic towards
26 them. Former Justice Roach is another one, and I
27 think I have appeared before him more than any other
28 witness with possibly the exception of Judge
29 Anderson. I think those two I have appeared before
30 or used to appear before more than any other judges.

1 Magistrate Hanrahan from Windsor I used to know from
2 Windsor. He was another one. There are plenty of
3 them still around, sir.

4 THE COMMISSIONER: Oh, yes. There
5 seems to be a great deal of business to be done also.

6 MR. POLLOCK: Well, Mr. Williams, thank
7 you very much, we are obliged for the time and
8 trouble you took to prepare this brief. It was
9 certainly a thoroughgoing exposition of your own
10 experience and we are obliged as well for the hour
11 or two that you spent with us today to discuss some
12 of the matters that you are familiar with.

13 MR. WILLIAMS: Well, I hope I haven't
14 wasted your time.

15 THE COMMISSIONER: No, you haven't.
16 You may rest assured of that. We are obliged to you,
17 Mr. Williams.

18 MR. WILLIAMS: And please don't think
19 that my rantings are a reflection on my age. I feel
20 rather young in the presence of you, sir.

21 THE COMMISSIONER: Well, I am glad of
22 some use.

23 MR. WILLIAMS: I am six years younger,
24 anyway.

25 THE COMMISSIONER: Thank you very much,
26 Mr. Williams.

27
28
29 ---Luncheon adjournment.
30

1 --On resuming at 2:00 p.m.

2
3 MR. POLLOCK: United Steelworkers of
4 America. Mr. Donald Montgomery.

5 MR. MONTGOMERY: Mr. Rand and Mr.
6 Pollock, I would like to introduce the group from
7 the Steelworkers. On my immediate right is Mr.
8 Cotterell of our national office, Mr. Leopold
9 Bertacchi of our area office, Robert Bouchard of
10 our national office, Fortunato Rao of our district
11 office, John Fitzpatrick of our Toronto office and
12 Otto Urbanovics of our district office and the
13 president of the group, Eugenio Elia. In a minute,
14 sir, Mr. Bouchard will make our presentation.

15 MR. POLLOCK: Who is minding the
16 store? Everybody seems to be here.

17 MR. MONTGOMERY: We have a few left.

18 MR. POLLOCK: I might say at the
19 opening, Mr. Bouchard, that this is rather an
20 extraordinary hearing in the sense that it relates
21 to a particular dispute that is presently going on.
22 The purpose of this Commission hearing the matters
23 that you set out in your memorandum is to familiarize
24 itself with an actual labour dispute. We are, of
25 course, by the nature of this Commission as it was
26 constituted not concerned with the resolution of
27 this dispute in particular, and of course, we are
28 only interested in the types of situations that are
29 going to be disclosed, I understand, this afternoon
30 as they relate to a general situation which may

1 exist in some cases and which may not exist in others.
2 We are not to be construed by any stretch of the
3 imagination as examining the actual operations of
4 either of these two companies that are involved with
5 you in this dispute, but using this dispute merely
6 as a vehicle to examine an actual labour dispute
7 while it is in progress. Is that understandable?

8 MR. BOUCHARD: Thank you very much,
9 Mr. Pollock. We are not making that construction at
10 all, and we assumed that this would be an opportunity
11 to raise a case in point and to describe an actual
12 situation which might serve to have a better under-
13 standing of the operation of labour disputes and
14 the relative balance of power that is involved.
15 I am aware that other organizations that have been
16 here before you, namely, one management association
17 in particular, the Automobile Transport Association
18 of Ontario, for instance, gave you a lot of
19 information concerning disputes. They had a long
20 nomenclature of acts and incidents that
21 occurred during actual labour disputes and they too
22 were asking for a balance of power in labour disputes
23 and we find ourselves today in a very strange way
24 asking for a balance of power in this particular
25 situation. Of course, the situation varies very
26 much from dispute to dispute. However, in this case
27 we have a situation where a group of workers were
28 unable to succeed under present legislation to create
29 a labour organization and ultimately work out a
30 collective agreement.

We have gone into some detail and I would like to read the memorandum in full and, of course, skip the quotation of labour legislation and so on.

(Mr. Bouchard reads brief on page 1 from: "Our major purpose" down to "outlawed in lawful strikes")

MR. TAYLOR: Mr. Chairman, excuse me, my name is Brian Taylor, and I am a representative of the two companies named here. Since you mention, Mr. Pollock, that we have no intention of trying to drag one particular case out before the public, and since it comes to my mind that we have a representative of the press here, we don't like this afternoon to have any mudslinging and we would like to get to the base of the problem and that any reference to the two companies could be deleted. Would that be possible, Mr. Chairman?

MR. POLLOCK: We appreciate your position, but do you not think the people involved know the name of your company now?

MR. TAYLOR: I am not sure that the press does or not, but what I am trying to get at now, Mr. Chairman, is that we do have a Labour Relations Act which deals with some of the problems that are going to be raised today and I don't think it would be fair to the company or serve any valuable purpose to often refer to the company concerned. It would only serve to discredit them and I don't think

1 it is the job of a Commission.

2 MR. POLLOCK: Well, I will ask the union
3 to refrain from referring often to the names of the
4 companies that are involved.

5 MR. TAYLOR: Thank you very much.

6 MR. BOUCHARD: Well, to all practical
7 purposes I don't think it will change the situation
8 very much, but we are certainly not here to compliment
9 the employer in question, I must ensure that.

10 THE COMMISSIONER: Has much of this
11 been advertised already in the papers?

12 MR. BOUCHARD: Yes, it has, Mr.
13 Commissioner, yes.

14 MR. POLLOCK: Well, we will just talk
15 about "the company" and we will all know who you mean.

16 MR. BOUCHARD: At any rate, there have
17 been numerous articles in the newspapers, I must just
18 point out. In the Italian newspapers of Toronto, in
19 many of the larger dailies such as the Toronto
20 Telegram so that the public are quite familiar with
21 this situation. Do you nevertheless insist that I
22 proceed in that way?

23 MR. POLLOCK: Well, nothing will be
24 served by reminding them that they are already
25 familiar with it and we can't erase what they already
26 know, so I don't think it is going to make that much
27 difference to the submission if you talk about the
28 company.

29 MR. BOUCHARD: Well, I will carry on then
30

1 (Mr. Bouchard continues to read brief
2 on page 1 from "Terms of Reference" down to "they
3 have to say".)

4 I think that the fact that the Commission
5 refused to do that is precisely to avoid the
6 situation that perhaps Mr. Taylor was complaining
7 about today in a sense.

8 (Mr. Bouchard continues to read brief
9 on page 1 from "The Events Leading Up To The Strike"
10 down to "both aggrieved employees" on page 2.)

11 THE COMMISSIONER: Did that include
12 reinstatement?

13 MR. BOUCHARD: It does, Mr. Commissioner,
14 yes.

15 MR. POLLOCK: Well, they were only
16 suspended, they weren't discharged.

17 MR. BOUCHARD: If one reads the Labour
18 Relations Board's decision it was assumed that there
19 was a suspension and no actual severance of employment.

20 (Mr. Bouchard continues to read brief
21 on page 2 from "We quote the" down to "reasonable
22 they were" on page 4.)

23 MR. POLLOCK: May I just stop you at
24 that point? These two plants operate fairly close
25 together, I imagine they are in the same building,
26 are they not?

27 MR. BOUCHARD: They are two different
28 buildings, but the properties are adjoining.

29 MR. POLLOCK: They carry out the same
30 type of operation in both plants?

1 MR. FITZPATRICK: They are intermingled,
2 they chrome-plate it in one plant and take it back to
3 the other one.

4 MR. POLLOCK: They are two functions
5 in the production of the metal furniture or whatever
6 they are making?

7 MR. BOUCHARD: Yes.

8 MR. POLLOCK: Part of it is done in
9 one side and part in the other?

10 MR. BOUCHARD: That is correct.

11 (Mr. Bouchard continues to read brief
12 on page 5 from "The Economic Proposal" down to "'same
13 take-home pay'".)

14 MR. POLLOCK: They weren't working 50
15 hours a week in contravention of the Hours of Work and
16 Vacation with Pay Act, were they?

17 MR. FITZPATRICK: They could work 48
18 plus 2.

19 MR. POLLOCK: There was a permit in this
20 case?

21 MR. BERTACCHI: Well, the question
22 has been raised by Mr. MacDonald at the Commons and
23 it was confirmed that this company has permission for
24 100 hours of working overtime.

25 MR. FITZPATRICK: You might add to this,
26 though, that there was contravention but it is
27 impossible to prove it. Some employees worked 70
28 hours, but it is a matter of policing. Even when they
29 were going on strike they were working these hours.

30 MR. POLLOCK: I suppose they were doing

1 it on a voluntary scale.

2 MR. FITZPATRICK: Yes.

3 (Mr. Bouchard continues reading brief
4 on page 6 from "The Company's move" down to "days of
5 industrial slavery".)

6 MR. POLLOCK: What was the significant
7 difference between the language that you are concerned
8 with ---- security?

9 MR. FITZPATRICK: The law firm in
10 question has a model agreement the same as we have
11 a model agreement. It covers no economic matters
12 whatsoever. It was handed to us, but later on in the
13 conciliation the company's lawyer admitted the company
14 would not even agree to that even though they had
15 presented it to us. The company sort of double-
16 crossed him and would not even agree should we have
17 been agreeable to sign the company's draft the company
18 would not at that time agree to sign it.

19 MR. POLLOCK: That is the one you
20 speak of that relates to 35 years ago?

21 MR. FITZPATRICK: Yes, it is drawn up
22 by the law firm in question and it leaves a great
23 deal out.

24 MR. POLLOCK: I suppose it puts a great
25 deal in because the people at this other plant were
26 satisfied with that type of agreement.

27 MR. FITZPATRICK: No, what happened
28 here was that this was presented in the other case,
29 this particular law firm presents this in every case
30 the same as we present our model agreement, and then

1 between our model agreement and their model agreement
2 which are exact opposites, we come out with something
3 in the middle. The middle one was presented to this
4 company saying, "There is no use of us arguing, we
5 took seven months and they signed this two weeks ago
6 signed on your draft. There is no use of us wasting
7 our time arguing this out, we will accept it carte
8 blanche". This is what we did.

9 MR. POLLOCK: Without prejudice to
10 future rights if they insisted on starting off the
11 process without a model agreement and your model
12 agreement?

13 MR. FITZPATRICK: Right. Well,
14 considerable time had elapsed here through lawyers
15 trying to get together and so on. I think it was
16 some six or eight weeks from the time of the
17 certification until the time of actual meetings, and
18 this was done in an effort to speed up negotiations.

19 MR. POLLOCK: Right.

20 (Mr. Bouchard continues to read brief
21 on page 6 from "Full Scale Bribery" down to "the wage
22 increases" on page 7.)

23 MR. POLLOCK: There is something I don't
24 understand, you have a rate there and it says \$2.00,
25 and then that is typed and then it has written in
26 ten cents. Does that mean that the original rate was
27 \$1.90 and that ten cents is added to that?

28 MR. BOUCHARD: That is correct.

29 MR. POLLOCK: So that these are the final
30 rates including the increments that are printed here

1 in case you decided how much that increment was?

2 MR. BOUCHARD: That is right. If you
3 want more details on those notes, Mr. Bertacchi is
4 here.

5 MR. BERTACCHI: Your interpretation is
6 correct. We know of other wage increases given to
7 other employees, but at that time they were not present
8 at the membership meeting. Therefore, we couldn't
9 write them down.

10 MR. POLLOCK: There are some people
11 who appear to be doing the same function who have got
12 different final salaries and some people that have
13 the same final salaries don't have a marginal note
14 beside them.

15 MR. BERTACCHI: That is why they left
16 the union.

17 MR. FITZPATRICK: We went through the
18 list when we heard the company was giving raises under
19 the table to people who would not support the union.
20 We went through the list and said, "All right, who
21 got the wage increases?", so all of this ^{is} marked
22 beside. In negotiations I asked the company's lawyer
23 if they wanted a responsible wage proposal from us
24 we must know what the wages now are. So they submitted
25 us this list, but in the meantime they had raised the
26 wages from the time we were certified and started
27 negotiations and in actual fact we went through this
28 to find out who had got raises and whether these
29 rates were correct, so we found in some cases the
30 rates listed there weren't correct and the ones that

1 are just written there were increases given after we
2 were certified.

3 MR. POLLOCK: I notice that there is
4 a fellow named Miraldo Picassi who is a shipper who
5 is getting \$1.60 an hour with no marginal note.

6 MR. FITZPATRICK: He received nothing.

7 MR. BERTACCHI: Most likely, if I may
8 add, Picassi was not present at the meeting and
9 therefore we couldn't know.

10 MR. FITZPATRICK: This is not a general
11 wage increase, these were picked. The foreman talked
12 to the people there and told them if they were good
13 boys and didn't support the union they would give
14 them a raise, so they gave certain people a raise
15 and other people they didn't. This is where it came
16 from. Now, eventually later on I think practically
17 everybody in there was given something prior to the
18 strike to sort of take the edge off collective
19 bargaining.

20 MR. BERTACCHI: Just to add for your
21 information if you read some places six weeks or ten
22 days ago and so on it is not from the 1st of December,
23 the date on which we made this check.

24 (Mr. Bouchard continues to read brief
25 on page 7 from "Before cancelling the discussions"
26 down to "that of a foreman".)

27 MR. POLLOCK: What was the description
28 of the bargaining unit, hourly-rated employees? All
29 employees in the company without foremen?

30 MR. BERTACCHI: Save and except those in

1 the rank of foreman and above. He picked key men and
2 said, "You are now on salary". This we didn't go into
3 in negotiations because we felt that this would
4 clarify itself when we got into collective agreement.

5 MR. POLLOCK: I just wondered whether
6 by doing that some bargaining units are described
7 in relation to salary-rated or hourly-rated.

8 MR. FITZPATRICK: Well, usually today
9 it is certified for all the boys, and then the
10 exclusions are put in there.

11 MR. BOUCHARD: We will file copies of
12 the certification if you wish.

13 MR. POLLOCK: No, that clarifies it.

14 MR. BOUCHARD: The actual quote is
15 "save and except for other persons above the rank of
16 foreman", and so on.

17 (Mr. Bouchard continues to read brief
18 on page 7 from "Private arrangements were" down to
19 the company's image" on page 9.)

20 I would like to introduce those
21 articles, Mr. Pollock. I can give them to you after.
22 They have been translated by the newspaper itself.

23 (Mr. Bouchard continues to read brief
24 on page 9 from "A complaint was filed" down to
25 "eventual strike action".)

26 MR. POLLOCK: This was before Mr. Elia
27 had been fired?

28 MR. BOUCHARD: This is correct.

29 (Mr. Bouchard continues to read brief
30 on page 10 from "The report of" down to "in favour of

1 strike action".)

2 MR. POLLOCK: Exhibit H has, I take it,
3 four ballots on it.

4 MR. BERTACCHI: Yes, as you see it is a
5 copy, so they cut them out.

6 MR. POLLOCK: They don't get four votes
7 apiece?

8 MR. BERTACCHI: No.

9 (Mr. Bouchard continues to read brief
10 on page 10 from "On April 27, 1967" down to "'outside'
11 strikebreakers".)

12 MR. POLLOCK: How do you know that?

13 MR. BOUCHARD: Because we have contacted
14 some who were contacted before. As a matter of fact,
15 I think we have one of them present here.

16 (Mr. Bouchard continues to read brief
17 on page 10 from "It was essential" down to "had 'a big
18 mouth'", on page 11.)

19 MR. POLLOCK: Mr. Elia was going around
20 asking employees whether they were going to be there
21 on Monday too, was that it?

22 MR. FITZPATRICK: This particular
23 instance took place at the coffeewagon, not going
24 around the plant during working hours.

25 MR. POLLOCK: But he was asking people
26 if they were going to be in on Monday?

27 MR. BOUCHARD: I would like Mr. Elia
28 to speak for himself, because I was not aware of where
29 he was.

30 MR. POLLOCK: I don't suggest he took time

1 off work and walked around. I wanted to know whether
2 the reference to "big mouth" was ascertaining the
3 same information that the company was trying to
4 ascertain.

5 MR. BOUCHARD: Yes, sure.

6 (Mr. Bouchard continues to read brief
7 from "An employee named" down to "after his arrest" on
8 page 11.)

9 MR. POLLOCK: His own reconnaissance?

10 MR. BOUCHARD: Yes.

11 MR. FITZPATRICK: No, he had to put up
12 \$1,000.

13 MR. POLLOCK: He had to post \$1,000?

14 MR. BERTACCHI: Yes, that is correct.

15 (Mr. Bouchard continues to read brief
16 on page 11 from "Final Strike Preparations" down to
17 "as previously decided" on page 12.)

18 MR. POLLOCK: These 14, do they
19 represent any particular skill?

20 MR. BERTACCHI: I have here their
21 names and their job classifications.

22 MR. POLLOCK: Well, without going
23 through their names because it doesn't make that much
24 difference.

25 MR. BERTACCHI: I would say that at
26 least three men were key men inside on the operation.
27 Mind you, these 14 men are not in any way part of the
28 57. They are 14 men that were in the 82 as we
29 estimated the total to be. There has been a vote
30 taken by 57 men. These 57 men had stayed compact.

1 These 14 men are the ones who did not attend the
2 meetings and this, I think, is the time when Elia
3 went and talked to those people who were not at this
4 meeting informing them of the decision taken about
5 the strike.

6 MR. POLLOCK: So the 14 men were not
7 people who had changed their minds after voting in
8 favour of the strike?

9 MR. BERTACCHI: Not at all.

10 (Mr. Bouchard continues to read brief
11 on page 12 from "More Bribes Confirmed" down to
12 "which he did".)

13 MR. POLLOCK: What was his regular
14 salary?

15 MR. BERTACCHI: \$2.00 an hour.

16 MR. POLLOCK: So if you work 50 hours
17 a week it would be \$100 a week.

18 MR. BERTACCHI: If he did, yes.

19 MR. POLLOCK: What was his work week?

20 MR. BERTACCHI: Well, Mario Bruno is
21 here if you would like to question him later.

22 MR. FITZPATRICK: It is hard to say
23 because the strike took place immediately after that,
24 and they were working 45 hours a week during the
25 strike.

26 MR. BERTACCHI: I would say it is
27 anything between 42½ up to 48 and 49.

28 MR. FITZPATRICK: Some people were
29 driven in at just after 5 in the morning and got out
30 at 5 at night, so what the work week was I couldn't

1 tell you.

2 MR. POLLOCK: Well, how does he get
3 paid overtime if he is not an hourly-rated employee?

4 MR. BERTACCHI: As I understand it,
5 he has been offered and assured that he will be
6 working on a salary for 40 hours a week. Any hour made
7 above the 40 hours a week would have been paid as
8 overtime.

9 MR. BOUCHARD: Mr. Bruno is here if you
10 care to question him.

11 MR. FITZPATRICK: \$110.00 was to be
12 his salary.

13 MR. POLLOCK: As compared to \$80.00?

14 MR. BERTACCHI: Yes, plus some fringe
15 benefits.

16 (Mr. Bouchard continues to read brief
17 on page 12 from "Bruno went as far" down to "to this
18 effect".)

19 MR. POLLOCK: Has he got it?

20 MR. BOUCHARD: I don't know, he is here,
21 you can ask him.

22 (Mr. Bouchard continues to read brief
23 on page 12 from "It was also common" down to "resisted
24 the temptation".)

25 MR. POLLOCK: Were any of these people
26 what you would call key personnel or was it the fact
27 that they were members of the bargaining group?

28 MR. FITZPATRICK: They were key
29 personnel in the sense of their relations there with
30 employees, the Italian employees, let us put it this

1 way. Belvedere was a truckdriver, one of the two truck-
2 drivers. Scaglione, I don't know what his job was,
3 but they were looked upon as being leaders. This is
4 why they were on the bargaining committee.

5 MR. POLLOCK: Then the function that
6 they performed in the plant, it ---

7 MR. FITZPATRICK: It was only secondary,
8 I think, to their position of leadership with the
9 people.

10 MR. POLLOCK: Did they exercise any
11 function prior to the organization of lead hand or
12 anything like that?

13 MR. FITZPATRICK: No.

14 MR. BERTACCHI: If I may add a few
15 points of explanation, in this plant as fairly often
16 happens in other plants where immigrants newly
17 immigrated to this country are working you establish a
18 pattern of family ties or little villages ties, in
19 other words, I go there, find a job and then I talk
20 to my friends and they come over and so on, so really
21 when we speak of key men it may well be that it is
22 understood either that the type of the work that they
23 are performing or the type of leadership they have
24 inside there.

25 (Mr. Bouchard continues to read brief
26 on page 12 from "The Strike" down to recruited by the
27 Company".)

28 MR. POLLOCK: Are they back to full
29 employment?

30 MR. BOUCHARD: Yes, they have been for

1 about ten days to our knowledge.

2 MR. FITZPATRICK: Above full employment.

3 (Mr. Bouchard continues to read brief
4 on page 12 from "We are therefore" down to "to replace
5 employees" on page 13.)

6 MR. POLLOCK: These people who are now
7 working in the plant, what is their wage level
8 compared to what it was on this list?

9 MR. BOUCHARD: We think, we have heard
10 that another 10 cents wage increase was granted across
11 the board to all the employees on May 29th.

12 MR. POLLOCK: So that means ----

13 MR. BOUCHARD: On top of that there
14 were a number of wage increases granted to individuals,
15 out,
16 as we point / so we would suspect that certainly the
17 wage levels are 15 to 20 cents higher than they were
18 when bargaining commenced or than they were at the
19 time of the organization of the local.

20 MR. FITZPATRICK: The scabs are getting
21 even more than this because of the fact that they
22 were offered more. The people there were told that
23 anybody they could bring in would be at \$1.80 an hour,
24 where normally they would be brought in at \$1.50.

25 I talked to Alexander myself, and said, "What are you
26 doing this for, if you gave us this you would settle
27 this strike", and there was just no comment.

28 MR. POLLOCK: Generally, then, it is
29 your view that the wages that are presently being paid
30 to these replacement employees, if they were paid in
the same structure that currently exists to the

1 bargaining unit at the time the strike occurred the
2 strike would never have occurred?

3 MR. FITZPATRICK: Basically our
4 submission when we say 30 cents an hour was not 30
5 cents across the board.

6 MR. POLLOCK: It was not?

7 MR. FITZPATRICK: You would have ten
8 people in the classification, two at \$1.60, two at
9 \$1.70, and two at \$1.80. We took \$1.90 as being the
10 top rate and said, "We will bring everybody doing the
11 top job up to this". It meant that the man at the
12 top would only get a nickel to straighten this out.
13 This always happens at the first agreement to try to
14 get equal pay for equal work.

15 MR. POLLOCK: Is the only thing holding
16 back the negotiations at the signing of this contract
17 the economic part?

18 MR. FITZPATRICK: No.

19 MR. POLLOCK: Then even if he gave you
20 this wage ---

21 MR. FITZPATRICK: He wouldn't sign an
22 agreement. He told us later on at the conciliation
23 board, he told the conciliation officer that he would
24 not even sign a contract for the wage he was then
25 paying. It was simply that he would not have the
26 union, this is what it was.

27 MR. MONTGOMERY: Even if he was
28 successful in getting wage increases without any
29 agreement so far.

30 MR. COTTERELL: I might add that this

1 recently happened some years ago in larger plants
2 where unions attempted to organize. During the
3 organization period and conciliation period there
4 would be wage increases and changes made.

5 MR. TAYLOR: Excuse me, Mr. Pollock,
6 I am in no way attempting to give any defence for
7 the company concerned because we have had, if you
8 read through this, there are charges of intimidation,
9 bribery and, of course, there are remedies for this
10 under the Act. In fact they have stated themselves
11 that two men were reinstated. We also notice that
12 Eugenio Elia has been criminally charged, so there
13 is intimidation possibly in the other direction also.

14 MR. POLLOCK: We have noted that as
15 well.

16 MR. TAYLOR: As to the meeting as to
17 conciliation, I personally attended that conciliation
18 meeting that the gentlemen are talking about, and I
19 can state that Mr. Alexander who is of the opinion
20 and, of course, as you know, everyone comes up to the
21 manager and says, "I am not for the union, I don't
22 want a union in this plant", and you don't know who
23 says what, you are never sure, everybody comes forward
24 and looks very nice and sweet, so you are never sure
25 whether they really want the union or not. Mr.
26 Alexander was of the opinion the employees did not want
27 the union, did not accept the union, and I understand
28 that two-thirds of the men came back from the strike
29 and are employed once more.

30 MR. COTTERELL: Pardon me, if I may make

1 a comment, sir. I appreciate the desire of the
2 representative of the company here to make these
3 points, but surely the statement in a way condemns
4 itself. The law of the Province of Ontario provides
5 for a method or should provide for a method, tries to
6 provide for a method whereby employees can decide
7 without company interference as to whether or not
8 they want a union, and that is what the Labour
9 Relations Board procedures are for. Surely it is not
10 the function of the employer to try and set itself
11 up as being above the Labour Relations Board in its
12 function. In short, why should an employer go around
13 asking employees whether or not they want a union or
14 not? There is a procedure whereby they can demonstrate
15 their desires in this way without having to tell
16 their employer, without endangering their position
17 under the law. I am surprised that this admission
18 would be made here that anyone went around and
19 asked the employees at the time that the Labour
20 Relations Board was supposed to be examining the
21 situation.

22 MR. POLLOCK: I don't think he said they
23 asked the employees. I think he said the employees
24 came up and suggested to him that they were with the
25 employer. In your experience that is not an unheard-
26 of situation where both sides are rather impressed
27 with backing a winner and they will tell the union
28 they support the union and they will tell the company
29 they support the company.

30 MR. COTTERELL: There are always some

1 units who will do that, yes.

2 MR. FITZPATRICK: If I may interject
3 here, after one of our union meetings I had a quite
4 a lengthy discussion with two foremen and Mr. Alexander
5 who were down in the coffeeshop outside of our union
6 meeting where I invited them in to speak with equal
7 time. I had quite a discussion afterwards because
8 they waited till every employee had left that place
9 and I am sure they were there for intimidation, but
10 I talked to them in front of these two fellows, and
11 I never heard such garbage in all my life coming out of
12 educated men --- not from Mr. Alexander, but from the
13 two foremen who I think basically Mr. Alexander
14 shouldn't have listened to in the first place, but he
15 stated to me, "I don't think my people want a union.
16 If they can strike me, then they will get a contract,
17 if they can't strike me, they won't get a contract".
18 I said, "Well, that is quite simple, this is why
19 charges were not laid of bargaining in good faith
20 because I hope we would be able to negotiate an
21 agreement without anything hanging over our heads", but
22 when the strike vote was taken and when the people did
23 strike, he had immediately already set out to beat the
24 strike through the Unemployment Insurance Commission
25 and any means he could find, so he was not speaking in
26 true tongue to us or his legal firm in any way, shape
27 or form that he intended to see whether the people
28 wanted the union or not. He didn't want a union and
29 he was going to break it come hell or high water, that
30 is all it amounted to, really.

1 MR. BOUCHARD: I would like to point
2 out in the strike vote there were 57 people who
3 showed up at that strike vote meeting and during that
4 weekend the committee and the representatives and
5 organizers contacted the employees to find out if
6 there was a consensus, to find out if they were
7 prepared to fight just the same. It has always
8 happened that you take a strike vote and you find
9 people might change their minds, they might get a
10 little scared about the whole thing, and any union
11 organizer with brains is certainly not going to get
12 into a fight he is sure of losing. If he knows he
13 hasn't got the troops, he will try to delay things,
14 postpone action, and try to manoeuvre in such a way
15 as to make sure he is not going to head into a
16 situation he can't come out of in one piece. So that
17 we personally disregarded ^{the} / statements of the owner
18 of that company when he said the people didn't want
19 a union. I think it is just totally ridiculous.
20 All we have to say is that as far as the union was
21 concerned its local union officers, its organizers
22 and representatives make a strong majority of people
23 there despite the fact that they were under heavy
24 pressure and wanted to fight, very reluctantly
25 decided "Sure, if we have got to fight, we are going
26 to fight to get a collective agreement and to win that
27 strike", and on the morning of a strike --- and here is
28 where I continue --- approximately 53 employees
29 formed the picket line.

30 (Mr. Bouchard continues to read brief

1 on page 13 from "The Solidity of the Strike" down to
2 "in the day".)

3 And among those ten I might point out
4 there was Mr. Bruno who changed his mind that day and
5 decided to join his fellow employees on the picket
6 line. He came out with two or three employees.

7 MR. POLLOCK: He is out and in and out
8 and in, is he?

9 MR. BOUCHARD: That is correct.

10 (Mr. Bouchard continues to read brief
11 on page 13 from "Most of them" down to "on Company
12 property".)

15 13 MR. POLLOCK: What are the horse buggies?

14 MR. MONTGOMERY: They transport these
15 horses in a van to the place where they want them to
16 run.

17 MR. BOUCHARD: We do not want to
18 purport to mean that there should not be any police
19 officers there when a strike takes place. It was
20 just to point out the fact that for many people who
21 are inexperienced this is a big show of strength for,
22 after all, the commission of a lawful act.

23 (Mr. Bouchard continues to read brief
24 on page 13 from "The surprise of" down to "gallantly
25 waged so far".)

26 MR. POLLOCK: You are not making a
27 position here that the picket line had a legal right
28 so far as today is concerned to stop those people from
29 going through the picket line?

30 MR. BOUCHARD: No, I am not going to

1 dispute the legal case of that. I would say they
2 might have had a moral right, but it is dangerous.

3 MR. POLLOCK: Well, the police are there
4 to stop some kind of a scuffle, I suppose.

5 MR. FITZPATRICK: One thing that
6 amazes me, I have been in a number of strikes and I
7 have seen two policemen or three policemen I think
8 our unit have always conducted strikes pretty
9 decently in the Toronto area atleast. I can't speak
10 for any other area, but any one that I have been
11 involved in the first thing they have done when the
12 police arrive is show them that there will be no
13 violence but the police arrive and they have in their
14 pockets leaflets in English and Italian and it
15 sets out there the Criminal Code which any man just
16 reading, he doesn't know where he is because these
17 people have never been on strike before in their
18 lives, they are faced with a little document from the
19 police that says that if I watch and beset I can be
20 put in jail and all these things. This scares a
21 person right off, but in this particular strike the
22 number of people walking up and down there, I have
23 never seen horses before at a strike in any one I
24 have been involved in. At Samuel, Son and Company
25 a few years ago we had some 200 people on strike, and
26 I never saw more than two policemen on the picket
27 line all the time we were on strike.

28 MR. POLLOCK: Better horses than
29 dogs.

30 MR. FITZPATRICK: Better horses than

1 dogs, I don't know.

2 THE COMMISSIONER: Of course, you
3 don't know what representations were made to them.

4 MR. FITZPATRICK: There were none made
5 to us. When we have a strike in the City of Toronto
6 there is a strike organization that the city have,
7 and there is a fellow by the name of Joseph Kennedy
8 and another fellow who looks into it. If I am going
9 to have a strike, I will call up Kennedy and say,
10 "Look, we are going to have a strike tomorrow at this
11 place", and he says, "Fine, we will be around", and
12 they come around. There may be one car there, but
13 I would say there were ten police cars on the street
14 on the first morning of this strike.

15 MR. POLLOCK: Maybe the police were
16 reading the newspaper reports of this Commission.

17 MR. FITZPATRICK: There was nothing in
18 the paper about this strike in any way, shape or form.

19 MR. POLLOCK: There has been a lot of
20 controversy through this Commission as to the role
21 of the police, that the injunction ought not to be
22 necessary if the police were there to look after law
23 and order to observe peace on the picket line. If
24 we have heard that once, we have heard it 47 times
25 and maybe they read it too, and they figure maybe
26 they are supposed to be there.

27 MR. FITZPATRICK: Well, I am sure the
28 taxpayers' money is not to be spent in this magnitude.

29 MR. MONTGOMERY: I think the point we
30 are trying to raise here is that / ^{these} uniformed policemen

1 to people who have recently become citizens and are
2 still to become citizens, especially in this situation,
3 gives an entirely different impression to them than
4 it would to someone who had lived here a longer period
5 of time because there is a certain fear of the
6 police in these people and in the country they came
7 from as well as here. They don't understand. The
8 intimidation is not intentional, we are not suggesting
9 it is, but the mere fact that they are in such
10 numbers the effect on these people is most damaging.
11 This is the reason we mention the numbers and so on.

12 MR. POLLOCK: I think you probably
13 have explained some of these matters to the members
14 at meetings, I take it, when you told them about
15 the strike not being a picnic.

16 MR. MONTGOMERY: We didn't expect that
17 many police ourselves. We have never had it before.

18 MR. FITZPATRICK: We instructed our
19 people on picketing, that they can stop a person if
20 the person wants to stop for the sole purpose of
21 talking to him and trying to persuade him, but they
22 could not block their entry or anything like this.
23 Now, I don't know what went on in this company, but
24 when you see all these policemen and police cars and
25 horse vans parked on company property, and the
26 people go in for their coffee breaks on the company,
27 I thought they were supposed to be neutral.

28 MR. POLLOCK: Did they have any coffee
29 there?

30 MR. FITZPATRICK: We had coffee in our

1 truck out front, yes. When the truck came along we
2 stopped it and bought coffee from it, but we didn't
3 have a supply from the company. We didn't have the
4 manager coming out to the policemen saying, "Do you
5 want to come out for a cup of coffee?". I would buy
6 him one too, but their role was supposed to be neutral
7 in this situation, and I just question up until this
8 strike I thought they were pretty neutral. I saw
9 scabs coming out of the plant at night calling names
10 to our people on the picket line, our people never
11 called back any names whatsoever because they were
12 instructed not to. I have seen strikes that I have
13 been involved in where the company came out to speak
14 to me and a policeman stepped in and said, "If you
15 want to talk to this man, you will send him a
16 telegram. There will be no communications between
17 the strikers and the people inside the building", and
18 I think this is the way it should be if you are going
19 to avoid trouble. I felt myself if I had had a
20 basket of tomatoes around when I was called names by
21 these people I would have pelted them with them, but
22 we were trying to abide by the law.

23 (Mr. Bouchard continues to read brief
24 on page 13 from "On May 2nd" down to "not much more
25 than \$35" on page 14.)

26 MR. POLLOCK: How many hours a week?

27 MR. BERTACCHI: I have all the pay
28 slips that I could get from them. They had been
29 working sometimes 40 hours, sometimes just eight hours
30 per week; in other words, they would be working one,

1 two or three days a week and laid off again and then
2 called in again and so on and so on. This was up
3 until the 29th of May --- I am sorry, the 29th of
4 April, but from the 1st of May, from the day of the
5 strike, they have been called in every day on
6 regular shift, day shift.

7 MR. POLLOCK: So the \$35 indicates that
8 their weekly work schedule was not that long, it was
9 not that they were not being paid enough.

10 MR. FITZPATRICK: They were just
11 called when they felt they needed them, that was all.

12 MR. POLLOCK: They were paid regular
13 wages?

14 MR. FITZPATRICK: Yes.

15 MR. BERTACCHI: If I may say I would
16 expect that at the time the company put their
17 regular employees on a 40-hour week schedule that is
18 the moment when they started hiring these people.

19 MR. POLLOCK: They had never worked
20 there before?

21 MR. BERTACCHI: No, with the exception
22 possibly of one man and during the eight or nine
23 months of negotiation these people had been kept on
24 and off the job doing the night shifts until the day
25 of the strike.

26 (Mr. Bouchard continues to read brief
27 on page 14 from "When Mr. Alexander" down to "with
28 police escort" on page 15.)

29 MR. POLLOCK: Those three are not
30 working any more there?

1 MR. BOUCHARD: No, they are not. As a
2 matter of fact, two of them applied to go back very
3 recently and were denied employment.

4 MR. POLLOCK: For what reason?

5 MR. BERTACCHI: "There is no job for
6 you".

7 MR. BOUCHARD: The flat statement "There
8 is no job for you".

9 MR. POLLOCK: What do you interpret that
10 to mean?

11 MR. BOUCHARD: We interpret that as
12 meaning that these people are militant unionists and
13 they don't want them in there.

14 MR. POLLOCK: Could it be interpreted
15 the other way that they are fully employed or, as Mr.
16 Fitzpatrick has said, they are overemployed?

17 MR. BOUCHARD: This is a possibility.

18 (Mr. Bouchard continues to read brief
19 on page 15 from "The majority were" down to "will
20 never get in,' etc.")

21 MR. POLLOCK: These were the employees
22 that had gone on strike?

23 MR. BOUCHARD: Yes, and apparently also
24 other Italian fellows who had never worked there.

25 MR. POLLOCK: Well, of course, you
26 can't make any threats against them, can you?

27 MR. BOUCHARD: No, but I am referring
28 more specifically to employees who were out on the
29 picket line.

30 MR. FITZPATRICK: But outside workers

1 were told, that is the people who came in as scabs,
2 were told to bring their friends in and they would
3 be guaranteed a job for life.

4 THE COMMISSIONER: Were the majority of
5 these who were brought in Italians?

6 MR. BERTACCHI: I would say yes, oh, yes.

7 MR. BOUCHARD: We think so, yes.

8 MR. BERTACCHI: It is a hard thing
9 to judge.

10 THE COMMISSIONER: Recent immigrants?

11 MR. BERTACCHI: Yes, but it is very
12 hard for us because they were going in by company
13 car in the mornings, so we couldn't see them and
14 talk to them and the same at nighttime.

15 (Mr. Bouchard continues to read brief
16 on page 15 from "How the Company tried" down to
17 "in these companies".

18 MR. POLLOCK: What kind of interest
19 does he have in these companies?

20 MR. BERTACCHI: In the case of A. & G.,
21 as we understand from what we have been told by the
22 workers, "A" stands for Alexander and "G" is for
23 his brother-in-law, and in the case of the Planet
24 Paper Box Company it is in the same building as Jet
25 Metal, and I am pretty sure that the owner, the well-
26 known owner of the Planet Paper Box told me that
27 there was some interest between the two.

28 MR. POLLOCK: It seems that he has an
29 interest in this whole Milvan Drive.

30 MR. BERTACCHI: At least five plants.

1 MR. POLLOCK: Any other places unionized
2 on Milvan Drive?

3 MR. FITZPATRICK: I don't think so.
4 They are all small companies. I don't think they
5 will be for a while either.

6 MR. BOUCHARD: It is little Sicily right
7 now.

8 (Mr. Bouchard continues to read brief
9 on page 15 from "As many as four" down to "strike
10 (Exhibit J)".)

11 MR. POLLOCK: Isn't it normal to give
12 notice before that?

13 MR. BOUCHARD: It was given early on
14 the telephone.

15 MR. URBANOVICS: I called the very first
16 day early in the morning and notified them about it.

17 MR. BOUCHARD: And in turn we understand
18 that he is at the coordinator headquarters. He sent
19 out a message later to the Manpower Centres that were
20 being concerned with this, but apparently the
21 message got down just somewhat later.

22 (Mr. Bouchard continues to read brief
23 on page 16 from "The Company's Secondary Boycott" down
24 to "PLANET PAPER BOX COMPANY".)

25 MR. POLLOCK: When was that?

26 MR. BOUCHARD: We have this gentleman
27 here if you want to speak to him.

28 MR. POLLOCK: Perhaps you can tell me,
29 Mr. Bertacchi.

30 MR. BERTACCHI: It is about the third or

1 fourth of May.

2 MR. POLLOCK: Before the letter went
3 and before the message trickled down?

4 MR. FITZPATRICK: It was not through
5 the Unemployment Insurance. He phoned the foreman
6 directly. We knew this foreman was going around doing
7 the hiring, so this man phoned the foreman for a job
8 and the foreman told him to go to work and report
9 there. It was not through the Manpower Centre.

10 MR. POLLOCK: It says in your opening
11 that ---

12 MR. BOUCHARD: That is an error on our
13 part. There is a misunderstanding. What we checked
14 out was the fact that men were being hired through
15 this other operation.

16 MR. BERTACCHI: If I may add a little,
17 in the morning we would count the workers crossing
18 the picket line and then we would count them again at
19 nighttime, and the first or second or third day we
20 would discover we were counting 40 in the morning and
21 70 in the afternoon, so we started to make
22 suppositions that perhaps they were going in the next-
23 door company and then through a door to get in.

24 MR. POLLOCK: Something like Hogan's
25 Heroes.

26 MR. FITZPATRICK: This one plant, the
27 Planet Paper Box, is one of these small semi-attached
28 plants, but there is a common door. If the guy wanted
29 to rent both sides, there is a common door between so
30 they would go in one and through the common door.

1 MR. POLLOCK: This is the experience
2 of this chap?

3 MR. FITZPATRICK: This is what the
4 Planet Paper Box were doing apparently.

5 (Mr. Bouchard continues to read brief
6 on page 16 from "He was met" down to "through a
7 partition wall".)

8 THE COMMISSIONER: What do you mean
9 a secondary boycott was in operation?

10 MR. BOUCHARD: It is perhaps not using
11 the words properly, Mr. Commissioner, but what we
12 are saying is that the employers who were directly
13 involved in this strike were using associated
14 companies, other employers, to help them break the
15 strike. This is all we mean.

16 MR. FITZPATRICK: One thing that is
17 not touched on here, prior to the strike they had
18 a request in the Unemployment Insurance Commission
19 for workers. This is where he had 15 strikebreakers
20 ready the morning of the strike. The Unemployment
21 sent four up there and on their record they were all
22 denied jobs, but they couldn't hire them anyway
23 because he had no jobs. On the 14th of April they had
24 a request in for workers at the Unemployment Insurance
25 Commission.

26 MR. POLLOCK: Not because he needed
27 to ---

28 MR. BERTACCHI: He just wanted names,
29 addresses and phone numbers. The fellows in the plant
30 told us there were people continually all during the

1 month of April coming into the plant being shown the
2 operation, their names and addresses being taken,
3 and told they would call them when they needed them
4 and this is where he had these people lined up.

5 MR. POLLOCK: Had that ever occurred
6 before?

7 MR. FITZPATRICK: Not to my knowledge.

8 MR. POLLOCK: It might have, though,
9 I suppose.

10 MR. FITZPATRICK: I am sure it must
11 have. There is no way the Unemployment Insurance
12 would know that as to whether an employer needs workers
13 or not.

14 MR. POLLOCK: But there is a
15 reasonably good turnover, I take it, in this type of
16 employment.

17 MR. FITZPATRICK: I would imagine there
18 would be.

1619 MR. POLLOCK: They are constantly
20 interested in new men.

21 MR. FITZPATRICK: Well, these people
22 coming in from the other company, Alexander told
23 people that all you had to have was your Unemployment
24 Book and we would make the arrangements or all you
25 had to have was your passport and we will make the
26 arrangements for getting your Unemployment Book and
27 everything, and I imagine this is how he gets most
28 of his workers.

29 (Mr. Bouchard continues to read brief
30 on page 16 from "It is the Union's" down to "with an

1 injunction".)

2 This was done in a very nice way.

3 MR. FITZPATRICK: And we were told
4 that if we didn't get out by 12 o'clock they would
5 have an injunction. We told him to go and get one.

6 MR. POLLOCK: You told him to go and
7 get one?

8 MR. FITZPATRICK: Yes, we took the
9 picket line off. Our lawyer said, "Go and get one if
10 this is what you are doing". The first day of the
11 strike there is a common driveway where this happens.
12 We are not involved in this strike. We are next door,
13 we have got a separate business and we said, "Fine,
14 we will not put the picket lines across your centre
15 line on the driveway"which we didn't, and yet all
16 the time he is pulling one over on us by hiring
17 people at his door and putting them through.

18 MR. POLLOCK: He didn't hire them, did
19 he? He didn't say, "Come and work for Planet Paper
20 Box,"did he?

21 MR. FITZPATRICK: He must have said
22 something to them. He must have gone in there and
23 said, "Come with me"and taken them through the wall.

24 MR. BOUCHARD: The man we talked to
25 had been met by somebody who was from the company that
26 was on strike.

27 MR. POLLOCK: It was not a case of
28 Planet Paper Box advertising for people to come and
29 work for them?

30 MR. BOUCHARD: No, we have no evidence

1 of that.

2 (Mr. Bouchard continues to read brief
3 on page 16 from "Evidence of Blacklisting" down to
4 "total union organization" on page 18.)

5 MR. POLLOCK: This same man didn't
6 have any more plants come in either.

7 MR. BOUCHARD: Yes, in addition to that.

8 (Mr. Bouchard continues to read brief
9 on page 18 from "As the situation stands" down to
10 "easily accessible to all workers" on page 20.)

11 MR. POLLOCK: Thanks, Mr. Bouchard.
12 You have some other people here today with you. We
13 would like to have any of them come forward or
14 anybody else who would like to add anything to the
15 preparation of the brief. Please feel free to do so.

16 MR. MONTGOMERY: Mr. Pollock, the
17 purpose of these people here is really if you want
18 any evidence through the statements in the brief
19 or any areas explored in the brief that we have
20 touched on. These are people who were involved in
21 the Jetco strike one way or another, and they are here
22 for your convenience for whatever you want to use them
23 for. That is why we brought them along.

24 MR. POLLOCK: We will adjourn for a
25 short recess for ten minutes.

26
27 ---Short Recess.

28
29 MR. POLLOCK: Mr. Bouchard, I don't
30 think there is any point in the Commission calling

1 any of these witnesses that you have here. As I
2 understand it, it is your position that you are
3 prepared or the union is prepared to certify that
4 the material that you put forward to us is as it
5 exactly happened, as interpreted by the union.

6 MR. BOUCHARD: We have been as
7 reasonably accurate as we can be.

8 MR. POLLOCK: Well, we are not going
9 to call the witnesses. We would like to thank those
10 who came down here for this hearing, taking their time
11 off work and in some places taking their time from
12 other areas to answer the subpoenas.

13 MR. POLLOCK: Do you wish to add one
14 more thing?

15 MR. BOUCHARD: I would like to add just
16 one more remark which I think is very relevant and
17 it is briefly to just tell the story and this is
18 public knowledge of what happened at the Gaspé Copper
19 Mine in the Gaspé Peninsula in 1956.

20 75 percent of the employees had signed
21 application for membership cards and the union applied
22 for certification in the summer of 1956 to represent
23 the 800 employees of that mine. The company obtained
24 a writ of prohibition against the Quebec Labour
25 Relations Board forbidding it on the basis of
26 technicalities from acting on the application for
27 certification. The union, of course, took the
28 necessary legal proceedings to have the writ defeated.
29 In March, 1957, events were such that the employees
30 found themselves out on strike. The strike was claimed

1 by the employer to be unlawful and that matter is
2 presently the object of a trial which has just been
3 appealed to the Supreme Court of Canada. But that
4 particular writ was heard late in 1957. I think it
5 was October or November of 1957. The union won the
6 case. The writ was rejected, the board did actually
7 in the summer of 1956 have the power to act on those
8 applications for certification, but that was a very hollow
9 victory because the strike had been defeated in the
10 meantime and the union was broken. This does have
11 some similarity to some of the remarks which were
12 made by the company representative here. Mr. Elia's
13 case, the president of the local union, will be
14 heard this coming weekend. Other cases will also
15 be heard relating to discharge and to intimidation
16 by this company. If the decisions are favourable,
17 the employees will certainly be compensated for some
18 damage to their personal lives, but it is a very
19 hollow victory for the existence of the union as such.

20 The point I would like to make is that
21 certainly redress is effective and is meaningful inas-
22 much as these matters are expedited before the
23 courts and that they are dealt with promptly. If
24 there are delays in the meantime, there can be
25 irreparable damage and this is what happened in this
26 case. Of course, I am not a lawyer, our lawyers are
27 unfortunately away from town, they could comment more
28 on this, but certainly it is our feeling as
29 practitioners of trade unionism that we just haven't
30 got a chance in hell, if I may use the language.

1 MR. POLLOCK: A snowball's chance.
2 If you are going to use the language, use all the
3 language.

4 MR. BOUCHARD: If the courts don't
5 act quickly on the complaints that are made. Also
6 I would like to point out that the board will
7 consider these cases individually while efforts to
8 discriminate, to intimidate, to fire for union
9 activity may be part of an overall plan of union
10 destruction and there again it seems that the board
11 is not in a position to act in such a way as to
12 redress the situation globally, and it would seem
13 to me that there is a difficulty there and that
14 somehow our legislation should be able to cope with
15 this massive campaign by an employer to destroy a
16 union.

17 There is another thing I would
18 like to mention. We delivered the subpoenas that
19 were signed by the Commission to a number of people
20 and I would just like to mention that one witness,
21 Mr. Ernesto Belvedere who works for an IGA store
22 was refused permission by his manager to come to this
23 hearing to get off work. I certainly think that
24 this should not be left this way, that somehow the
25 Commissioner should contact this person and take steps
26 to make him understand that this is not a way to
27 deal with a Royal Commission. We did not press
28 Belvedere to the point of exposing him to losing his
29 job. We felt that we would get by without him. We
30 did not press him or tell him not to come, but this is

1 what happened and we have the telephone number and
2 the details and will give them to you after.

3 I have personally really nothing much
4 more to add. Mr. Cotterell wishes to make a few
5 remarks.

6 MR.COTTERELL: I have been asked by
7 national director Mahoney, sir, who is unfortunately
8 away to express the appreciation of our union to you
9 for this extra hearing that you have given us in this
10 case. We wanted to give you a clearcut example. As
11 we pointed out in our brief, we are of the opinion
12 that the whole process of certification and government
13 conciliation which now is the pattern in Canada does
14 not mean anything if an employer is in a position
15 where he can at the end of that process change the
16 character of the employees with whom he is bargaining
17 arbitrarily; in other words, there has to be a
18 settlement with the employees who constituted the
19 certified and conciliated bargaining unit. We feel
20 that the law is lacking in that it regulates the
21 collective bargaining process only up to a point
22 where both sides may suffer economic loss because of
23 their failure to agree one with the other. We think
24 this is most dangerous. I can only emphasize the
25 concluding comments, we are in grave danger in this
26 country of having collective bargaining a right
27 enjoyed by a section of our employees who happen to
28 work for large complex concerns where the possibility
29 of strikebreaking is no longer possible.

30 I would like to point out to the

1 Commissioner that the days of mass picket lines and
2 violence and many of these things in large industrial
3 plants are just about gone. The trouble now is
4 coming with this vast sea of people, many of whom
5 are completely unfamiliar with Canadian law and who
6 have not practised collective bargaining as we
7 practise it in their homelands, who are coming here
8 trying to exercise precisely the same rights that
9 they see the other Canadians having and as long as a
10 company in our opinion knows in advance that it can
11 replace those employees with a new group of employees,
12 then in practice for all of these people there is no
13 collective bargaining possible. No matter whether
14 the law permits them to be certified or conciliated
15 it doesn't permit them the right to get an agreement.

16 We take considerable hope from much
17 of the evidence presented so far before your
18 Commission that if it is the policy of this province
19 that collective bargaining is the proper method of
20 conducting employer-employee relations we urge you
21 to make recommendations which will make collective
22 bargaining possible for all employees, not merely
23 for a favoured --- I won't say a favoured minority,
24 but a favoured section of Canadian employees. We
25 think this would be socially most damaging and
26 harmful in the future.

27 THE COMMISSIONER: Thank you, Mr.
28 Cotterell and gentlemen. We are much obliged for
29 this new form of communication when events are fresh,
30 and we get both radio and television as a means of

1 communication given in a situation of this sort.
2 It is more impressive than when it becomes a bit
3 stale because there is still a residue of feeling
4 that arises from the tension and the seriousness of
5 the treatment that it receives in the minds of those
6 who are interested deeply in it.

7 May I add this, that I quite fully
8 appreciate the significance of what Mr. Cotterell
9 has said. I would just like to point out, however,
10 that we hear a great deal about the interposition
11 of government. Now, you come and you say, "We ought
12 to have this by government", and then one of the
13 most favoured apparently is, "Keep hands off, let it
14 be free collective bargaining" that that is the be-all
15 and the means by which all this future harmony will
16 be brought about. I am not so sure either within
17 the reasonable foreseeable future that you can get
18 along without governmental interference, governmental
19 in the nature of what you are actually suggesting
20 today that regulations be made to prevent what you
21 consider to be a very improper use of defeating
22 means of organization.

23 I want to point out also, now, that
24 in part your weakness has been caused by the weakness
25 or cohesion of your union. I quite agree that it is
26 not an easy thing to generate with strangers coming
27 into this country unfamiliar with its laws and
28 practices and modes of procedure, but you can't escape
29 that fact that in this case itself your union did not
30 hold together as it would under the principles that

1 you very properly profess. That is one thing that
2 must be charged against the union. It must create
17 3 its own cohesion. That is something that government
4 can't do. It may do it indirectly by removing some
5 of the means by which that cohesion can be disrupted,
6 but primarily that is the task of union leadership,
7 and that is the task that has first-class ends in
8 view, to raise the eyes and the minds and the very
9 living of the people of this country which is a
10 great country to an appropriate level, appropriate
11 for all classes of the citizenship of this country.

12 Now, this is the last public hearing
13 that we plan to have and since about the 10th of
14 January we have held over 60 meetings. I want to say
15 first that we do appreciate on the part of both
16 labour and management the courtesy which has been
17 shown us and the fullness and the seriousness of the
18 manner in which they have presented to us their
19 views. In the course of these exchanges statements
20 have been made from both sides advocating this, that
21 or the other scheme of things, but the object which
22 we started with from the beginning was to have that
23 exchange uninhibited, have it uncoerced, as free as
24 you could have it so that any idea that was expressed
25 could be subjected to the scrutiny of critical
26 minds. We have welcomed from you criticisms of
27 suggestions from this table and we hope you have
28 equally welcomed our exchange. I would attempt to
29 use the word "dialogue" if it were not perhaps
30 limited to the upper circles of the elite, but we

1 have had a very profitable exchange. We have had
2 certain assurances that were very much appreciated
3 and with the 5,000 pages of evidence that we have
4 gathered together we must now settle down to the
5 assessment of its value --- what can be done. I
6 think before we decide upon that we will have to
7 postulate certain objectives. What is the objective
8 in civilization of Canada today? What type of
9 social organization, not political but the social
10 community life do we look to as being desirable of
11 attainment? And once having done that, then we
12 can weigh the considerations of the past and what
13 has been suggested in endeavouring to formulate a
14 legislative structure that will yield as much as
15 possible to the individual action of men, employees
16 and employers, and at the same time will not forget
17 the overriding interest of the public.

18 We depend upon this community for
19 our security, for our safety, for the realization of
20 our individual and collective ambitions, for the
21 essentials of the lives we lead. We are embedded
22 in the community, we can't escape it. The interests
23 of that community have always to be kept in mind.
24 The problem of maintaining individualism as far as
25 possible consistently with the health and strength
26 of the social community will, I think, be accepted
27 by all of us as something that is quite necessary.

28 I can only say again that we have been
29 met from all sides and from all quarters with the
30 greatest courtesy and one thing that affects me the

Toronto, Ontario

1 it the
2 greatest sincerity and seriousness of the advocacy
3 which we have listened to and I want to thank you
4 all for what you have done.

5 MR. POLLOCK: The hearings of this
6 Commission are adjourned sine die.
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17 ---Adjournment.
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BINDING SECT, OCT 20 1967

